SENATE

FRIDAY, OCTOBER 4, 1940

(Legislative day of Wednesday, September 18, 1940)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. ZeBarney T. Phillips, D. D., offered the following prayer:

O Thou, who art the God of nations and Judge among the nations: Make us as a people deeply conscious of our corporate life, and as we pass through troublous times, days of a common anxiety, unite us, we beseech Thee, in a mighty purpose to fulfill our destiny among the nations of the world. Call us by the providence of events to take a lowlier estimate, not of our tasks but of ourselves, that we may be the better fitted for the high service to our country. And, as we pause here in the silence of the moment, may we feel the pulsings of Thy mighty heart, and know that the eternal God is our refuge and that underneath are His everlasting arms.

Teach us that when sorrow comes, the soul should be but kindled to a finer energy, rousing itself to achieve, to attain, and to obey the sterner stress; for loss, instead of gain, doth sometimes measure life, and often in love's sacrifice the one who suffers most hath most to give. Help us, O God, to learn this lesson day by day. We ask it in our Saviour's name. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day of Thursday, October 3, 1940, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States, submitting nominations, were communicated to the Senate by Mr. Latta, one of his secretaries.

CALL OF THE ROLL

Mr. MINTON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Davis	Johnson, Colo.	Shipstead
Andrews	Downey	King	Smathers
Ashurst	Ellender	McKellar	Stewart
Austin	George	Maloney	Thomas, Idaho
Bailey	Gerry	Mead	Thomas, Okla.
Bankhead	Gibson	Minton	Thomas, Utah
Barkley	Gillette	Murray	Townsend
Brown	Glass	Norris	Truman
Bulow	Green	O'Mahoney	Tydings
Burke	Guffey	Overton	Vandenberg
Byrnes	Gurney	Pepper	Van Nuys
Capper	Hale	Pittman	Wagner
Caraway	Harrison	Radcliffe	Walsh
Chavez	Hayden	Reed	Wheeler
Clark, Idaho	Herring	Russell	White
Clark, Mo.	Hill	Schwartz	Wiley
Connally	Holt	Schwellenbach	
Danaher	Johnson, Calif.	Sheppard	

Mr. MINTON. I announce that the Senator from Washington [Mr. BONE] and the Senator from Kentucky [Mr. CHANDLER] are absent because of illness.

The Senator from Virginia [Mr. BYRD] is absent due to illness in his family.

The Senator from Mississippi [Mr. BILBO], the Senator from Michigan [Mr. BROWN], the Senator from Ohio [Mr. DONAHEY], the Senator from New Mexico [Mr. HATCH], the Senator from Delaware [Mr. HUGHES], the Senator from Oklahoma [Mr. LEE], the Senator from Illinois [Mr. LUCAS], the Senator from Nevada [Mr. MCCARRAN], the Senator from Arkansas [Mr. MILLER], the Senator from West Virginia [Mr. NEELY], the Senator from North Carolina [Mr. REYNOLDS], the Senator from Illinois [Mr. SLATTERY], and the Senator from South Carolina [Mr. SMITH] are necessarily absent.

Mr. AUSTIN. I announce that the Senator from Oregon [Mr. MCNARY], the Senator from New Hampshire [Mr. TOBEY], the Senator from North Dakota [Mr. NYE], the Senator from North Dakota [Mr. FRAZIER], the Senator from Ohio [Mr. TAFT], the Senator from Massachusetts [Mr. LODGE], the Senator from Oregon [Mr. HOLMAN], and the Senator from New Jersey [Mr. BARBOUR] are necessarily absent.

The VICE PRESIDENT. Seventy Senators have answered to their names. A quorum is present.

REPORT ON AWARD OF CERTAIN WAR DEPARTMENT CONTRACTS

The VICE PRESIDENT laid before the Senate a letter from the Secretary of War, reporting, pursuant to the act of March 5, 1940, relative to divisions of awards of various contracts for aircraft, aircraft parts and accessories therefor, which was referred to the Committee on Military Affairs.

LAWS, ORDINANCES, ETC., OF MUNICIPAL COUNCILS AND LEGISLATIVE ASSEMBLY, VIRGIN ISLANDS

The VICE PRESIDENT laid before the Senate two letters from the Acting Secretary of the Interior, transmitting, pursuant to law, copies of laws, ordinances, and so forth, passed by the Municipal Councils of St. Croix, St. Thomas, and St. John and the legislative assembly of the Virgin Islands for the year 1940, which, with the accompanying papers, were referred to the Committee on Territories and Insular Affairs.

REPORT OF AGRICULTURAL ADJUSTMENT ADMINISTRATION—PAYMENTS TO FARMERS

The VICE PRESIDENT laid before the Senate a letter from the Secretary of Agriculture, transmitting, pursuant to law, a report, for the fiscal year ended June 30, 1939, of the activities carried on by the Agricultural Adjustment Administration, with tables showing payments to farmers by counties under the 1938 programs, which, with the accompanying papers, was referred to the Committee on Agriculture and Forestry.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution of the twenty-first annual convention of the California-Nevada Association of Lions Clubs at San Jose, Calif., favoring the prompt enactment of legislation to control the menace of subversive activities of agents of foreign powers in the United States, which was referred to the Committee on Foreign Relations.

He also laid before the Senate a resolution of the annual session of the National Council, Sons and Daughters of Liberty, at Atlantic City, N. J., commending and endorsing the activities of the so-called Dies Committee on Un-American Activities, of the House of Representatives in its endeavor to uncover subversive influences in the United States, which was referred to the Committee on the Judiciary.

He also laid before the Senate a resolution of the twentieth annual convention of the Western Association of State Game and Fish Commissioners at Seattle, Wash., protesting against the regulation known as Regulation G20A of the United States Forest Service, which was referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a resolution of the twentieth annual convention of the Western Association of State Game and Fish Commissioners at Seattle, Wash., favoring the appointment of an interim committee to study, with a view to amendment, the Pittman-Robertson Act and the so-called Buck bill, which was referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a resolution of the twentieth annual conference of the Western Association of State Game and Fish Commissioners at Seattle, Wash., favoring the appointment of an interim committee to study the proposal to organize one Federal conservation body to handle all wildlife questions, which was referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a resolution of the twentieth annual convention of the Western Association of State Game and Fish Commissioners at Seattle, Wash., favoring an appropriation to provide for the development of the Deweyville Dam to supplement the Bear River bird refuge water supply, which was referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a resolution of the twentieth annual convention of the Western Association of State Game and Fish Commissioners at Seattle, Wash., protesting against the taking of fur bearers on Federal wildlife refuges except in accordance with State laws or in cooperation with the various States, which was referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a resolution of the twentieth annual conference of the Western Association of State Game and Fish Commissioners, at Seattle, Wash., requesting the Government not to set aside Federally administered lands for parks, recreational and wilderness areas, monuments, etc., until the various political subdivisions of the States have had opportunity to give the problems presented adequate consideration, which was referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a resolution of the twentieth annual convention of the Western Association of State Game and Fish Commissioners at Seattle, Wash., requesting the Director of the Fish and Wildlife Service to cooperate with the New Mexico Department of Game and Fish and New Mexico sportsmen in providing promptly necessary permits for the control of mergansers on their wintering areas in that State to prevent further depletion of the game fish resources, which was referred to the Committee on Agriculture and Forestry.

He also laid before the Senate a resolution of the twentieth annual convention of the Western Association of State Game and Fish Commissioners at Seattle, Wash., pledging support to the States of Oregon, Idaho, and Washington in their joint effort to perpetuate an adequate run of fish in the Columbia River, which was referred to the Committee on Commerce.

He also laid before the Senate a resolution of the twentieth annual conference of the Western Association of State Game and Fish Commissioners at Seattle, Wash., requesting that the regulations of the Department of the Interior governing the leasing of lands under section 15 of the Taylor Grazing Act be amended so as to assure the right of the public to hunt and fish on such lands, which was referred to the Committee on Public Lands and Surveys.

He also laid before the Senate a resolution of the twentieth annual conference of the Western Association of State Game and Fish Commissioners at Seattle, Wash., favoring the enactment of the bill (S. 3739) to amend the act providing for Federal aid to the States in the establishment of wildlife-restoration projects to be owned by the respective States and maintained by them in accordance with the provisions of their laws, which was ordered to lie on the table.

Mr. AUSTIN (for Mr. BARBOUR) presented petitions of Father Divine and sundry other citizens of the United States, numerously signed, praying that the Americas be united for peace, and also for the enactment of pending legislation to prevent and punish the crime of lynching, which were referred to the Committee on Foreign Relations.

Mr. RADCLIFFE presented a letter signed by several members of the Committee to Defend America by Aiding the Allies, Maryland Branch, Baltimore, Md., submitting additional signatures to their petition praying that the United States extend necessary aid to England in the pending crisis, which was referred to the Committee on Foreign Relations.

He also presented a letter from Arthur O. Lovejoy, chairman of the Maryland branch, Committee to Defend America by Aiding the Allies, Baltimore, Md., relative to certain alleged misrepresentations in the remarks and speeches of several Senators pertaining to the Committee to Defend America by Aiding the Allies, which was referred to the Committee on Foreign Relations.

RESOLUTION OF THE BROTHERHOOD OF SLEEPING-CAR PORTERS

Mr. WALSH. Mr. President, I ask to have printed in the CONGRESSIONAL RECORD, and appropriately referred, a resolution adopted by the Brotherhood of Sleeping Car Porters at its biennial convention in New York City, September 15 to 20, 1940, in opposition to Senate bill 3798, the so-called Pullman conductors' bill.

There being no objection, the resolution was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

CONDUCTORS' BILL

Whereas the Pullman conductors bill was presented to Congress for enactment and would deny porters the right to run in charge on certain lines and take from them who now run in charge $13.50, which is paid as a differential in wages, in addition to the established rate of pay; and

Whereas the propaganda that the conductors have spread among passengers and before State legislatures to get legislation adopted against porters' running in charge has tended to reflect upon the good name and character of the porters, calculated as it were to impress the public with the idea that women, children, and men passengers were not safe in cars where there were no conductors but where only a porter in charge was at work: Therefore be it

Resolved, That the Brotherhood of Sleeping Car Porters, in its biennial convention in New York City, September 15 to 20, 1940, goes on record as opposing and condemning the conductors' bill, and herewith calls upon the international president and the international executive board to take appropriate action to prevent this bill, or any one similar to it, from becoming a law, either in the Congress or in the States.

REPORTS OF COMMITTEES

Mr. SMATHERS, from the Committee on Claims, to which was referred the bill (S. 3240) for the relief of the St. Nicholas Park Co., reported it without amendment and submitted a report (No. 2201) thereon.

Mr. BURKE, from the Committee on Claims, to which was referred the bill (H. R. 7784) for the relief of Howard R. M. Browne, reported it without amendment and submitted a report (No. 2202) thereon.

Mr. ADAMS, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 6658. A bill to authorize the lease or sale of certain public lands in Alaska, and for other purposes (Rept. No. 2203);

H. R. 7252. A bill to authorize the Secretary of the Interior to sell or lease for park or recreational purposes, and to sell for cemetery purposes, certain public lands in Alaska (Rept. No. 2204);

H. R. 8646. A bill to authorize the exchange of certain patented lands in the Death Valley National Monument for Government lands in the monument (Rept. No. 2205); and

H. R. 9173. A bill for the protection of the water supply of the town of Petersburg, Alaska (Rept. No. 2206).

Mr. ADAMS also, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 8512) to provide for the acquisition of additional lands for the Chickamauga and Chattanooga National Military Park, and for other purposes, reported it with amendments and submitted a report (No. 2207) thereon.

Mr. McKELLAR, from the Committee on Claims, to which was referred the bill (S. 4215) for the relief of Caffey Robertson-Smith, Inc., reported it with an amendment and submitted a report (No. 2208) thereon.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WHEELER:

S. 4399. A bill for the relief of Gros Ventre Nation or Tribe of Indians of Montana; to the Committee on Indian Affairs.

By Mr. AUSTIN (for Mr. BARBOUR):

S. 4400. A bill for the relief of the First National Steamship Co., the Second National Steamship Co., and the Third National Steamship Co.; to the Committee on Claims.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Calloway, one of its reading clerks, announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 844. An act to simplify the accounts of the Treasurer of the United States, and for other purposes; and

S. 4270. An act to promote and strengthen the national defense by suspending enforcement of certain civil liabilities of certain persons serving in the Military and Naval Establishments, including the Coast Guard.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 10572) making supplemental appropriations for the national defense for the fiscal year ending June 30, 1941, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10539) making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. TAYLOR, Mr. WOODRUM of Virginia, Mr. CANNON of Missouri, Mr. LUDLOW, Mr. SNYDER, Mr. O'NEAL, Mr. JOHNSON of West Virginia, Mr. TABER, Mr. WIGGLESWORTH, Mr. LAMBERTSON, and Mr. DITTER were appointed managers on the part of the House at the conference.

ADDRESS BY WENDELL L. WILLKIE AT PITTSBURGH, AND INTRODUCTION BY SENATOR M'NARY

[Mr. AUSTIN asked and obtained leave to have printed in the RECORD the address delivered by Wendell L. Willkie, Republican nominee for President of the United States, at Pittsburgh, Pa., on October 3, 1940, and the introductory remarks of Senator MCNARY, which appear in the Appendix.]

ADDRESS BY SENATOR WAGNER BEFORE THE NEW YORK STATE DEMOCRATIC CONVENTION

[Mr. WAGNER asked and obtained leave to have printed in the RECORD a speech delivered by him at the Democratic State convention in New York City, on September 30, 1940, which appears in the Appendix.]

WENDELL L. WILLKIE AND THE PUBLIC POWER QUESTION

[Mr. HILL asked and obtained leave to have printed in the RECORD an address delivered by him on the occasion of the throwing of the switch bringing T. V. A. electric current to Bessemer, Ala., on December 15, 1939, which appears in the Appendix.]

THE VOTING RECORD OF SENATOR MALONEY ON WAR VETERANS' LEGISLATION

[Mr. HARRISON asked and obtained leave to have printed in the RECORD a compilation of the voting record of the senior Senator from Connecticut [Mr. MALONEY] on legislation affecting war veterans, which appears in the Appendix.]

STATEMENT BY ARCHBISHOP JOSEPH SCHREMBS ON THIRD PRESIDENTIAL TERM

[Mr. BURKE asked and obtained leave to have printed in the RECORD a statement on the subject of a third Presidential term by Archbishop Joseph Schrembs, of Cleveland, which appears in the Appendix.]

JAPANESE-AMERICAN RELATIONS

[Mr. HOLT asked and obtained leave to have printed in the RECORD a number of articles concerning relations between the United States and Japan, which appear in the Appendix.]

JAPANESE ACTIVITIES—ARTICLE FROM THE WASHINGTON STAR

[Mr. PEPPER asked and obtained leave to have printed in the RECORD an article from the Washington Evening Star of September 30, 1940, entitled "Contend United States Must Stop Japanese," which appears in the Appendix.]

LOOTING OF FRANCE—ARTICLE FROM NEW YORK HERALD TRIBUNE

[Mr. PEPPER asked and obtained leave to have printed in the RECORD an article from the New York Herald Tribune of September 30, 1940, entitled "The Looting of France Begins," which appears in the Appendix.]

ELECTION OF PRESIDENT—LETTER FROM DEAN ACHESON

[Mr. PEPPER asked and obtained leave to have printed in the RECORD a letter dated September 27, 1940, from Dean Acheson to the editor of the Baltimore Sun, relating to the election of the President of the United States, which appears in the Appendix.]

HITLER AS AN ISSUE IN THE CAMPAIGN

[Mr. BYRNES asked and obtained leave to have printed in the RECORD an editorial from the New York Times of the 1st instant under the heading "Hitler as the issue," and a quotation from an article appearing in the same publication today, sent from Rome by the correspondent of the New York Times, Herbert L. Matthews, which appear in the Appendix.]

IMPROVEMENT OF RIVERS AND HARBORS IN THE NATIONAL DEFENSE

The Senate resumed the consideration of the bill (H. R. 9972) authorizing the improvement of certain rivers and harbors in the interest of the national defense, and for other purposes.

The VICE PRESIDENT. When the Senate took a recess yesterday, what is known as the river and harbor bill was the pending business. The Chair understands that the Senator from North Carolina [Mr. BAILEY] is in charge of the bill. Does the Senator from North Carolina desire to have unanimous consent given to consider committee amendments first?

Mr. BAILEY. Yes, Mr. President; I make that request.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mrs. CARAWAY. Mr. President——

The VICE PRESIDENT. The Senator from Arkansas has requested the Chair to recognize her for the purpose of addressing the Senate. The Senator from Arkansas.

THE PRESIDENTIAL CAMPAIGN AND THE THIRD-TERM ISSUE

Mrs. CARAWAY. Mr. President, I wish to join others in expressing my sympathy for the real Republicans in the current Presidential race. With a wealth of Presidential timber in its own ranks, that party permitted its convention in Philadelphia to be "blitzkrieged," and an unknown to capture the place as standard bearer of the Republican Party in the present campaign.

Many stories have come out of Philadelphia as to how this was accomplished. That it was put over by Wall Street, the backer of Mr. Willkie, in the same manner that would have been used in a stock-promotion scheme, is well known.

We now perceive the sad spectacle of the once great Republican Party making gestures of following a leader in whose behalf its members are not genuinely sympathetic.

This Republican candidate is now engaged in running up and down the country preaching a doctrine of liberalism, or, in fact, anything which he thinks will secure votes. With most of his statements a majority of his own party do not agree, and they are in direct opposition to most of the Republican legislative record. Under the pressure of politics, Republican legislators must render their candidate "lip service." This is a bitter pill for most of them to swallow. There are so many instances in which they do not agree with their titular leader that it has been a difficult task for them to speak in his behalf. In these efforts there has been an avoidance of reference to these policies. This has left them with apparently but one theme to discuss. That is the third-term issue.

In recent days the CONGRESSIONAL RECORD has been filled with speeches by Republican legislators regarding this feature. The thought is that there is a sacred "tradition" against a third term for the President of the Nation. That this has no foundation in fact is easily determined by the history of our country.

An effort has been made to prove that the so-called two-term tradition was founded by the Father of his Country. Not only did Washington not inveigh against more than two

terms, but he clearly stated in his Farewell Address that he was declining to be considered for a third term only on purely personal grounds, and not as a matter of principle. Even before his election, Washington had taken positive stands against limiting the Presidential term.

Washington retired because he was weary. He had wished to quit after one term, but had been persuaded to remain, as he wrote in his Farewell Address, by the "perplexed and critical posture of our affairs with foreign nations." His reason for agreeing to serve a second term was essentially the same as Franklin D. Roosevelt's reason for accepting nomination to a third term. When Washington retired, he knew the infant Republic was on its feet, and that he was being succeeded by John Adams, a man in whom he had full confidence.

It has likewise been argued that Thomas Jefferson was against a third term. While statements were made by Mr. Jefferson which could be construed as in opposition to a third term, yet he did say that if an emergency arose he would consent to serve again.

The failure of one or more of the early Presidents to consent to being a candidate for a third term is attributed by historians to age and failing health rather than anything else. Washington was 65 years of age when he retired. The same thing was true of Madison. Monroe was 66 when he quitted the Executive Mansion. Andrew Jackson was 69. Every one of the five pre-Civil-War Presidents who served two terms was 65 or older when he left the office. Three of them, at least, were anxious about their health. Every one of them knew, when he retired, that he was turning the office over to another man of his own party and political philosophy. In at least three cases the successor was hand-picked by the retiring President.

The next President upon whom I shall comment was a Republican, Gen. U. S. Grant. He was the sixth President up to that time to serve two terms. He saw nothing binding in the two-term precedent. Grant was only 55 at the end of his second term. It was said that he was deeply hurt because he was not proffered a third nomination in 1876. However, after an interim this Republican President came back and sought a third nomination in 1880. Notwithstanding happenings which turned many members of his own party against him, the Republican Party at that time thought enough of him to deadlock the national convention for more than 30 ballots. The Republicans who supported Grant on that occasion saw nothing wrong in the third-term idea. In fact, it was not the third-term idea at all which beat Grant, but other factors which I do not care to mention at the present time.

Republican consciences, which appear to be so badly hurt at the present time over the third-term issue, did not bother their owners very greatly upon another occasion. I refer to the candidacy of Theodore Roosevelt. Teddy Roosevelt saw nothing wrong with being a candidate for a third term. In fact, he believed so strongly in such a term of office that he split asunder his own party, and, failing to receive the nomination, ran as an independent. In that race he made a splendid showing. Wilson defeated him with fewer popular votes than Bryan had received in any of his three races for the Presidency. There is no evidence that the two-term tradition was an important factor in the failure of Theodore Roosevelt to win in 1912. He was supported by thousands of Republicans, many of whom are still living. That being true, it is difficult to understand how it is possible for those Republicans who voted for Theodore Roosevelt for a third term, and their descendants, to insist that it is now wrong for Franklin D. Roosevelt to be elected to a third term.

Mr. President, the fact is that even later than that there were great numbers of Republicans who insisted that Calvin Coolidge should again be a candidate. It was agreed that he could easily have secured the Republican nomination for another term of office if he had desired it. Mr. Coolidge declined, largely, I believe, upon the ground of his health. There has been talk to the effect that he afterward regretted his decision, but that it was then too late to change his mind.

At the end of his second term Franklin D. Roosevelt will have served a shorter period than any other two-term President in our history. This will have been occasioned by the twentieth amendment to the Constitution, which changed the beginning of a Presidential term from March 4 to January 20. On next January 20 he will have been President only about 5 months longer than was Theodore Roosevelt. If he serves a third term, which he will do, he will have occupied the White House for 11 years, 10½ months. If Theodore Roosevelt had been elected in 1912, as hundreds of thousands of Republican supporters of his desired, and had served the full term, he would have been in the White House for 11 years and 6 months. It is difficult to see, with the record as it is, and the wholehearted support which Republicans gave to Grant and to Theodore Roosevelt, how it can be argued how it would have been all right for those two men to have been elected to a third term, and yet it would be subversive to our system if Franklin D. Roosevelt were to serve such a term.

Mr. President, Franklin D. Roosevelt is still a comparatively young man. In serving a third term he will leave the White House at 63, 2 years or more younger than 5 earlier Presidents when they retired at the end of two terms. The so-called tradition against a third term, as argued by the Republicans at the present time, was not in evidence in other periods of our national history. They know that, and yet they seek to use it at the present time for their own political advantage.

Our Nation faces one of the most critical periods in its history. Scarcely a day passes but brings this knowledge home to every American citizen. I doubt if there has been a period in the history of the world when the situation was similar to that of the present day. We need, as never before, a man in the White House of demonstrated knowledge and ability who, by experience and training, is fitted to lead us in this critical hour. To replace him with an untried, untrained man whose only public record is that of running a great utility corporation would be the most tragic mistake America has ever made.

Franklin D. Roosevelt has the complete loyalty and respect of millions of Americans. He assumed the Presidency when the economic and social condition of our Nation, due to the fault of the preceding Republican administrations, was at its lowest ebb. It is idle to compare that situation with the present situation. The present Democratic administration has a glorious record of achievement. Never before in our history have the rights of the common man been so recognized as they have been under the administration of Franklin D. Roosevelt.

It was because of this remarkable record that the overwhelming victory of 1936 was had. Despite all of this quibbling over the third term and the various objections which the Republicans have raised, Franklin D. Roosevelt will again be elected President of the United States by a majority comparable to those he received in 1932 and in 1936.

Mr. BURKE. Mr. President, we have listened to a very interesting discussion as to the attitude of George Washington toward a third term, and in order that the RECORD may be somewhat more complete I shall in a moment ask unanimous consent to have inserted in the RECORD an editorial printed in the New York Times today, a reprint from an editorial in the Standard-Times-Mercury, of New Bedford, Mass., entitled "George Washington and the Third Term." This editorial shows more completely and truly, as I see it, what Washington's attitude toward unlimited tenure of office of our Presidents might be.

But before presenting the unanimous-consent request, I should like to say also that in 1929 there was an occasion on the floor of the Senate, as we all know, when there was before this body the La Follette resolution, reading:

Resolved, That it is the sense of the Senate that the precedent established by Washington and other Presidents of the United States in retiring from the Presidential office after their second

term has become, by universal concurrence, a part of our republican system of government, and that any departure from this time-honored custom would be unwise, unpatriotic, and fraught with peril to our free institutions.

Among the Senators who listened to the several days' debate on that question, when the attitude of George Washington toward a third term was very fully discussed, and among those who expressed their opinions in the final vote, I note that the then distinguished Senator from Arkansas, Senator Caraway, was paired in favor of the adoption of the resolution, which declared it to be the sense of the Senate that the precedent established by Washington should be maintained.

I ask unanimous consent, Mr. President, to have inserted as a part of my remarks the editorial to which I have referred.

The PRESIDENT pro tempore. Is there objection?

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[Advertisement from the New York Times of October 4, 1940]

GEORGE WASHINGTON AND THE THIRD TERM

(An editorial from the Standard-Times-Mercury, New Bedford, Mass.)

A widespread effort is being made to prove that Washington favored, or countenanced, a third term for President.

It is based on a letter which Washington wrote Lafayette, now being widely circulated.

It is an abuse and misuse of the Lafayette letter.

It is time to debunk and remove this last historical leg from the third-term propaganda.

Here is the quote from the Lafayette letter on which the third termers are relying:

"Guarded so effectually as the proposed Constitution is in respect to the prevention of bribery and undue influence in the choice of President, I confess I differ widely myself from Mr. Jefferson and you as to the expediency or necessity of rotation in that appointment. * * * I can see no propriety in precluding ourselves from the services of any man who in some great emergency shall be deemed universally most capable of serving the public."

On its face this would seem a "natural" for the advocates of the third term.

But a study of the facts reveals the contrary.

By a strange "blind spot" modern writers, as well as the third termers, have omitted consideration of so obvious matters as—

The date of this letter of Washington to Lafayette, April 28, 1788, and the surrounding circumstances.

When this letter was written it was yet a year before Washington's first term as President.

The Constitutional Convention, which established the new Republic, had adjourned but 7 months before.

Lafayette was seeking counsel in the problems of France, already seething with revolution.

Washington was trying to justify the action of the Constitutional Convention which had, at the last minute, removed the requirement of rotation (change after each term) in the office of President.

The Convention had voted many times on the term of President.

Every vote, prior to the last, had been for a term of 6 or 7 years.

Every vote, save one, prior to the last, had demanded rotation in that office.

Only in the final vote, when the term of President was changed to 4 years was the rotation requirement removed.

In other words, the conviction of the Constitutional Convention plainly was, if the Presidential term was to be 6 or 7 years, the President should be limited to one term.

If the term was to be 4 years the restriction of one term, rotation, should be removed.

This was the conviction of Washington, for in the letter to Lafayette he said "the matter was freely discussed in the Convention and to my full conviction."

But Washington, in the same letter to Lafayette and in justifying the removal of the rotation requirement, narrows the purpose to two conditions:

One—in time of "some great emergency."

And two—when there existed a man "deemed universally most capable of serving the public."

These facts are implicit in the letter and the record, and obvious to even casual study.

Nor by one official act during his career does Washington violate or act out of harmony with this, which might well be called the Washington plan as to Presidential succession.

It was, we repeat, a single term of 4 years—except in great emergency—and then only to a man "deemed universally most capable."

As the end of his first term approached, as is well known, Washington prepared a Farewell Address.

On May 20, 1792, he sent a draft to Madison containing the following, in the obscure wording sometimes characteristic of the first President:

"* * * and as the spirit of the Government may render a rotation in the elective offices of it more congenial with the ideas the people have of liberty and safety, that I take my leave of them as a public man * * *."

On June 21, 1792, Madison returned the draft to Washington with the following clear-cut refinement of Washington's rotation clauses:

"* * * May I be allowed further to add, as a consideration far more important, that an early example of rotation in an office of so high and delicate a nature, may equally accord with the republican spirit of our Constitution and the ideas of liberty and safety entertained by the people."

This expression of Washington's views of rotation remained in the final draft of the first Farewell Address.

A copy adorns the rare-book department of the Boston Public Library, in Washington's own handwriting.

Though the persuasion of Madison, Jefferson, and others caused Washington to accept a second term, he clung tenaciously to the rotation principle.

In 1796, at the end of his second term, when deserted by Madison and Jefferson, he turned to Hamilton for help in his Farewell Address. The draft sent Hamilton May 15, 1796, contained the same Madison clause on rotation.

"It will be perceived from hence that I am much attached to the quotation," wrote Washington to Hamilton.

The quotation did not appear in the final draft of Washington's Farewell Address.

It had disappeared in the hands of Hamilton, the arch-Federalist, who had proposed a life term for President in the Constitutional Convention.

But Washington's convictions had not and did not change.

Steadfastly he refused to consider the Presidency again, in the name of emergency or otherwise.

On June 26, 1796, he wrote to his nephew, Robert Lewis:

"* * * I shall make my last journey to close my public life on the 4th of March, after which no consideration under heaven that I can foresee shall again withdraw me from the walks of private life."

Not a scrap of evidence in word or deed exists to indicate that Washington ever considered or favored a third term for President.

We have said it was time to debunk the Washington third-term propaganda.

It also is time to bring the third-term issue down to date.

For 150 years the Washington formula has worked substantially as planned and expected.

It now faces its first real challenge.

The longest tenure of office for President ever considered by the Constitutional Convention, 7 years, now is sought to be made 12.

The fears of Madison, Jefferson, Lafayette, and others are being justified.

The loophole left in the Constitution for the emergency second term is being taken advantage of to bring about a third term—and perhaps more.

By no wide stretch of the imagination can President Roosevelt qualify under the Washington formula, a man "deemed universally most capable of serving the public."

He is running because he was "deemed universally most capable" of being elected—by the Democratic Party.

Corrupt city gangs with mass political machinery contributed toward this third-term nomination—with the President's own knowledge and consent.

These corrupt gangs now promise to herd voters en masse to bring about election.

President Roosevelt alone of all Presidents has seen fit to make the class appeal, to divide the country in time of peril.

He baldly reminds labor of what he has done for labor and asks pay in votes, an affront to labor—and a disservice to democracy.

Federal employes now total more than 1,000,000.

More than 5,000,000 are on Federal relief.

These represent a population more than five times that of the United States at the time of Washington's election.

A subtle process of coercion is being exercised throughout the country on Government employees—especially on the unfortunate recipients of Federal relief.

The theme of this is "vote for the third-term candidate or jeopardize your job."

Are we facing now the situation to which Washington referred in the now famous letter to Lafayette where he said:

"* * * when a people have become incapable of governing themselves and fit for a master, it is of little consequence from what quarter he comes."

We do not know.

Today's crisis may well be, however, that "conflict of popular factions" to which Washington referred as "the chief, if not the only, inlets of usurpation and tyranny."

We do not believe the American people are ready for a "master."

We do believe they are nearer the "master" than they realize.

We do not charge President Roosevelt with attempting, consciously, to become a "master."

We do believe he is nearer than even he may realize.

Powers which President Roosevelt holds, which, he said, in the hands of others would "provide shackles for the liberties of the people" now are sought for another 4 years.

It is of no avail that President Roosevelt does not intend to be a dictator—

If by his bitter class partisanship and ignorance of the democratic economy he destroys the mainspring of democracy.
It is unimportant that President Roosevelt does not want to be a dictator.
For, unless democracy can be made to function, a dictatorship, of Roosevelt or some other, is inevitable.
Its specter stares now through the loophole in the Constitution left by Washington and others—
Left there to meet an "emergency," which it now creates.
There is a drift toward a "master."
Only the American people can stop this drift—
By voting against the third term.
If we do not, we have only ourselves to blame.
Washington's plan and precept preserved liberty for 150 years.
His warning stares us plainly in the face today.
If we do not heed this warning let us admit that we have failed to catch the torch of liberty which he has thrown us.

BASIL BREWER, *Publisher.*

Mrs. CARAWAY. Mr. President, I merely wish to say that the Senator Caraway to whom the Senator from Nebraska [Mr. BURKE] has referred was my husband. I am sure that if he were alive and here today he would take the same position I have taken.

MR. WILLKIE AND THE NATIONAL LABOR RELATIONS ACT

Mr. WAGNER. Mr. President, in a radio speech delivered from Pittsburgh last evening the Republican Presidential candidate made this statement:

I was for the National Labor Relations Act before it was passed—I was for it after it was passed—and I am for it now.

On an issue of such far-reaching importance, labor and the country at large will want to square these kind words uttered a few weeks before election with the record made before Mr. Willkie became a Presidential candidate. The record shows that three of the operating companies in the Commonwealth and Southern utility system have openly defied the rights of their workers to organize in unions of their choice, and established and maintained company-dominated labor organizations whereby the companies could sit on both sides of the conference table. In one of these companies where opposition to an American Federation of Labor union extends back to 1934, before the National Labor Relations Act was passed, labor has denounced the situation as "one of the blackest spots on the utility map."

I ask unanimous consent to have printed as part of my remarks:

First. Findings of fact and order of the National Labor Relations Board in the Consumers Power Co. case.

Second. The decision of the United States Circuit Court of Appeals for the Sixth Circuit upholding the Labor Board's order in full.

Third. The findings of fact and order of the National Labor Relations Board in the case of the Alabama Power Co.

Fourth. The comment on the Alabama Power Co. situation appearing in the Radio and Electrical Union News, issue of July (second half) 1940, official organ of the International Brotherhood of Electrical Workers, affiliated with American Federation of Labor.

Fifth. The consent decree entered by the United States Circuit Court of Appeals for the Seventh Circuit in the case of National Labor Relations Board against Southern Indiana Gas and Electric Co.

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

[United States of America. Before the National Labor Relations Board. In the matter of Consumers' Power Co., a corporation, and Local No. 740, United Electrical, Radio[1] & Machine Workers of America. Case No. C–790.—Decided November 8, 1938]

Electric and gas utility industry—interference, restraint, and coercion: surveillance of meeting; transfer of union members to less desirable work; warnings not to join union—company-dominated union: domination of and interference with formation and administration; support; urging employees to form inside labor organization; encouragement of inside organization by discouragement of other labor organization; participation by supervisory employees; respondent ordered not to recognize as agency for collective bargaining.

[1] A motion to change the title in this proceeding was made and granted, as described below.

Mr. Harold A. Cranefield and Mr. Charles F. McErlean, for the Board.
Bisbee, McKone, Badgley & Kendall, by Mr. Don T. McKone and Mr. M. F. Badgley, and Mr. W. D. Kline, of Jackson, Mich., for the respondent.
Mr. Maurice Sugar, of Detroit, Mich., for Local 740.
Mr. Frank C. Painter, of Jackson, Mich., for the Independent.
Mr. Joseph B. Robison, of counsel to the Board.

DECISION AND ORDER

STATEMENT OF THE CASE

On February 2, 1938, Local No. 740, United Electrical, Radio & Machine Workers of America,[2] herein called Local 740, filed a charge with the Regional Director for the Seventh Region (Detroit, Mich.) alleging that Consumers' Power Co., a corporation,[3] Jackson, Mich., herein called the respondent, had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of the National Labor Relations Act, 49 Stat. 449, herein called the act. On May 5, 1938, the National Labor Relations Board, herein called the Board, by the Regional Director, issued its complaint against the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of section 8 (1) and (2) and section 2 (6) and (7) of the act. Copies of the complaint, accompanied by notice of hearing, were duly served upon the respondent and Local 740.

In respect of the unfair labor practices, the complaint in substance alleged that the respondent dominated and interfered with the formation and administration of a labor organization known as the Independent Power Employees' Association, herein called the Independent, and contributed support to it; that such domination, interference, and support was manifested by displaying hostility toward United Electrical, Radio & Machine Workers of America, herein called the United; by encouraging membership in the Independent; by discriminating in regard to the tenure and term of employment of its employees for the purpose of encouraging membership in the Independent and of discouraging membership in the United; by permitting activity on behalf of the Independent during working hours and on its premises; by open surveillance of meetings of the United; and by other acts.

The respondent filed an answer dated May 10, 1938, and on May 17, at the hearing of the case, filed an amendment to its answer. The answer, as amended, in substance denied the alleged unfair labor practices, admitted certain allegations of the complaint concerning the respondent's business, denied the other allegations, and alleged affirmatively that the effect upon commerce of labor disputes in the conduct of the respondent's business would be indirect and remote. The answer of the respondent was accompanied by a motion to dismiss the proceedings on various jurisdictional and constitutional grounds.

Pursuant to the notice, a hearing was held in Jackson, Mich., from May 12 to July 28, 1938, before Charles W. Whittemore, the trial examiner duly designated by the Board. At the outset of the hearing a petition for intervention, previously filed by the Independent, and dated May 7, was granted by the trial examiner, participation by the intervenor being limited, however, to such matters as pertained to the alleged unfair labor practices within the meaning of section 8 (2) of the act. The Board, the respondent, Local 740, and the Independent were represented by counsel and participated in the hearing. With the limitation noted above as to the independent, full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded all parties.

The respondent's motion to dismiss the proceedings, made prior to the commencement of the hearing, was denied by the trial examiner on May 16. At the conclusion of the presentation of the Board's case on June 16, the respondent moved to dismiss the proceedings on the grounds alleged in its original motion and on the additional grounds that the evidence failed to sustain the allegations of the complaint of unfair labor practices and that all matters in dispute had been settled pursuant to a contract between the respondent and the United. The Independent moved to dismiss that portion of the complaint which alleged unfair labor practices within the meaning of section 8 (2) of the act. These motions were denied. Both were renewed at the close of the hearing, at which time the trial examiner reserved decision.

On May 16, counsel for the Board moved to amend the title of the proceedings to conform to the evidence by substituting for the name of Local 740, the name, "Utility Workers Organizing Committee, Local 101." The motion was granted.[4] On June 18, counsel for the Board moved for leave to file an amended complaint to conform to the proof. The motion was renewed at the close of the hearing, at which time it was granted. Counsel for the Board was allowed 7 days in which to file the amended complaint, and the respondent was allowed 7 days after the filing of the amended complaint in which to file an amended answer. At the close of the hearing, the parties were given 30 days for the filing of briefs, and were informed that they would be given 10 days from the date of the trial examiner's intermediate report to request oral argument before the Board.

[2] The name of Local 740, as it appears in the charge, is Local 740, U. E. R. & M. W. of A.
[3] The name of the respondent as it appears in the charge is Consumers Power Co.
[4] This aspect of the case is discussed below in section II.

On August 2, 1938, pursuant to the motion made and granted at the hearing, counsel for the Board filed an amended complaint, which contained certain additional allegations concerning acts of the respondent constituting unfair labor practices within the meaning of section 8 (1) and (2) of the act; and an allegation that "Utility Workers Organizing Committee," herein called U. W. O. C., "successor to Local 740" of the United, was a labor organization within the meaning of section 2 (5) of the act. The amended complaint also differed from the original complaint in that it alleged that certain unfair labor practices of the respondent affected U. W. O. C. as well as the United.

Thereafter, the respondent filed its amended answer to the amended complaint, in which it changed some of the allegations and denials of its original answer with regard to the nature of its business and the effects thereof upon commerce. It denied the right of the Board to substitute a new union as complaining party; and it alleged that the amended complaint was contrary to the rules of the Board in that, among other things, it enlarged the scope of the original complaint. The amended answer contained a prayer that the complaint be dismissed.

On August 3, 1938, the Board, acting pursuant to article II, section 37 (a) of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued an order directing that the proceedings be transferred to and continued before it.

Thereafter, the Independent filed an objection and exception to the above order, and requested that an intermediate report be filed by the trial examiner. The respondent filed a motion, dated August 11, 1938, to remand the case to the trial examiner. On August 16, 1938, the Board issued an order denying the respondent's motion, overruling the Independent's objection and exception, and denying its request.

The respondent also requested that it be permitted to file a brief with the Board, and the Independent requested permission to file briefs and make oral argument. By an order dated August 29, 1938, the Board directed that proposed findings of fact, proposed conclusions of law, and proposed order be issued and that the parties have the right, within 10 days from the receipt thereof, to file exceptions thereto, to request oral argument before the Board, and to request permission to file a brief with the Board.

The Board has considered and hereby affirms the rulings of the trial examiner with respect to the motions described above. The motions made at the conclusion of the hearing, on which the trial examiner reserved decision, and the motion to dismiss the complaint made in the respondent's amended answer, are hereby denied.

During the course of the hearing, the trial examiner made numerous other rulings on motions and objections with respect to the admission of evidence. The Board has reviewed the rulings of the trial examiner and finds that no prejudicial error was committed. The rulings are hereby affirmed.

Counsel for the respondent and counsel for the Independent objected throughout the hearing to the participation therein of counsel for the union which filed the charge herein. The participation of Mr. Sugar was in accordance with the rules and practice of the Board. The rulings of the trial examiner in this regard are hereby affirmed.

On September 2, 1938, pursuant to the order above described, proposed findings of fact, proposed conclusions of law, and proposed order were issued. On September 15 and 16, respectively, the respondent and the Independent filed exceptions thereto. The respondent and the Independent also filed briefs with the Board, which have been considered. Pursuant to a notice of hearing and a notice of an advancement of the date thereof, a hearing was held before the Board in Washington, D. C., on October 6, 1938, for the purpose of oral argument on the exceptions. The respondent and the Independent were represented by counsel and participated in the argument.

The Independent filed a motion with the Board, dated October 3, 1938, requesting that the record in this proceeding be reopened for the purpose of taking further testimony, and specifically for the purpose of incorporating therein the record in the proceeding in case No. R–1044, and for the purpose of showing activity by crew foremen on behalf of labor organizations other than the Independent. The motion is hereby denied. Most of the evidence in question was available at the time of the hearing in this proceeding. We do not deem the other evidence offered of sufficient significance to warrant reopening the record.

The Board has considered the exceptions filed by the respondent and the Independent. Except insofar as the findings of fact below differ from the proposed findings of fact, we find them to be without merit. They are hereby overruled.

Upon the entire record in the case, the Board makes the following

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent was incorporated under the laws of the State of Maine on April 14, 1910, and was admitted to do business in the State of Michigan on July 21, 1915. On November 30, 1937, 68.97 percent of the respondent's voting stock was owned by the Commonwealth & Southern Corporation of Delaware. Ten other subsidiaries of the Delaware corporation operate in the Middle West and South Atlantic States. The various subsidiaries together own the Commonwealth & Southern Corporation of New York, which perform certain services for each of them.

The respondent's executive offices are located in Jackson, Mich. It is engaged in the production, purchase, and distribution of electric energy and gas, as well as of water, steam heat, electrical and gas appliances, and byproducts, in the State of Michigan. It serves an area of 25,000 square miles, the population of which is in excess of 1,900,000. The area includes over 900 cities, towns, and smaller communities. Electricity is sold in 987 communities and townships as well as in rural areas; manufactured gas is sold in 126, and natural gas in 103 communities and townships. Steam heat and water are each sold in 4 communities. On November 30, 1937, the respondent had 392,653 customers of electric energy and 193,515 customers of gas.

Aside from certain municipal power plants, there are no competing sources of electric power in the area served by the respondent. Other gas and electric utility companies operating in Michigan do not operate parallel lines.

In November 1937 the respondent had 6,961 employees. In February 1938 the total number of employees was 6,467, and in May 1938, 6,131.

The respondent has interconnections with other electric utility companies operating in Michigan. Thus it has two interconnections with Michigan Public Service Co. It supplies almost all of the power requirements of a utility company in Adrian, Mich. It purchases the output of four companies, including that of Wolverine Power Co., which has an installed capacity of 13,400 kilowatts. Finally it purchases the entire supply of electric energy, about 29,000 kilowatts, which it distributes in Pontiac, from the Detroit Edison Co., and has other interconnections with that company which are used as a source of emergency supply for either company. Through these latter connections the respondent has an emergency reserve of 25,000 kilowatts. There is a daily interchange of power over these lines.[5]

The 42 hydroelectric plants operated by the respondent include 17 with a total capacity of 137,110 kilowatts, and 25 small plants with a total capacity of 10,605 kilowatts. The total effective capacity of these plants during the low-water season is estimated at 91,890 kilowatts. The respondent's 6 steam electric plants have a total effective capacity of 254,500 kilowatts, of which 23,000 kilowatts are held in reserve. During the 12 months ending on November 30, 1937, the respondent produced 1,546,816,430 and purchased 155,251,089 kilowatt-hours of electric energy.

The respondent's generating plants are connected into a single unitary system known as a power pool, which uses 2,455.52 circuit miles of high tension transmission lines. The distribution system totals 15,094 miles of line.

The respondent has seven active and six inactive plants for the production of coal gas, and seven active and five inactive plants for the manufacture of water gas. The total daily manufacturing capacity of these plants is 40,430,000 cubic feet. The respondent also purchases natural gas produced in Michigan. In the 12 months ending November 30, 1937, the respondent produced 5,452,768,000 and purchased 3,853,754,000 cubic feet of gas.

Purchase and sale of materials in interstate commerce

Coal is used for the operation of the steam electric plants which include over 60 percent of the respondent's total generating capacity. It also constitutes the raw material used in the coal-gas generating plants. All of the coal used by the respondent is purchased outside of Michigan, chiefly in West Virginia and Kentucky. In 1937 it paid $1,835,000, exclusive of transportation costs, for about 1,000,000 tons of coal. About 325,000 tons were used in the gas plants and most of the balance was used in generating electricity. Shipments of coal by rail are received daily at each of the plants, and are also received frequently, during the shipping season on the Great Lakes, at the respondent's docks in the Saginaw River.

In addition to the natural gas purchased by the respondent, oil for the manufacture of water gas is also purchased. All the natural gas and oil so purchased are produced within Michigan.

In connection with its operations, the respondent sells gas and electric household appliances within the area it serves, maintaining 45 retail outlets for this purpose. Although this phase of its operations is maintained merely to increase the sale of gas and electric energy, the appliances sold by the respondent constitute about 30 percent of such articles sold in the territory. During 1937 the respondent paid $2,200,000 for the purchase of appliances, 60 percent of which were shipped to it from points outside Michigan.

Among the other raw materials purchased by the respondent are poles used for transmission lines. During 1937 all of the poles purchased were shipped to it from points outside Michigan, including 80,000 pine poles from Louisiana and 10,000 cedar poles from Washington.

Large supplies of the raw materials described above are kept on hand at all times. Thus, although shipments of coal are received daily by the respondent, there is an established practice to keep at least a 60-day supply on hand. The average for appliances is 1½ to 2 months. Generally, all purchases made by the respondent are added to stock and are not used at once.

The raw materials used by the respondent are sent to it by railway, motortruck, lake vessels, and other means.

The respondent sells certain byproducts of the manufacture of gas, which include coke, all of which is sold to purchasers in Michigan; tar, 65 percent of which, amounting in value to $59,500, was sold during 1937 to purchasers outside Michigan; ammonia and ammonium sulfate, 95 percent of which, amounting in value to

[5] Detroit Edison Co. supplies power for a tunnel between Michigan and Canada. The record shows that it is unlikely that power from the respondent could find its way to this tunnel.

$30,300, was sold to purchasers outside Michigan; and drip oil, all of which, amounting in value to $10,600, was sold to purchasers outside Michigan.

Dependence of consumers on electric energy and gas supplied by the respondent

For the 12 months ending on November 30, 1937, about 56 percent of the electric energy sold by the respondent, representing 32 percent of the revenue received from the sale of such energy, was sold for industrial purposes. In the same period, 32 percent of the gas sales, representing 21 percent of the revenue received from such sales, was made for commercial and industrial purposes.

During 1937, 15.85 percent of the respondent's revenue for the sale of electric energy, and 26.40 percent of its revenue from the sale of gas came from the automobile and automobile-equipment industry alone. It should be noted that the percentage of electricity and gas sold to this industry, as distinguished from the percentage of revenue derived therefrom, is even higher, because of the relatively lower rates charged to industrial users. In addition, during 1937, 0.94 percent of the revenue from the sale of electric energy and 0.22 percent of the revenue from the sale of gas came from instrumentalities of transportation and communication, such as railroads, newspapers, telephone and telegraph companies, airports, and docks.

The record shows that the effect upon commerce and the instrumentalities of commerce of a cessation of the power supplied by the respondent to its customers would be disastrous. Among such customers are vast industrial concerns, the operations of which create a constant flow of materials into and out of Michigan, and various instrumentalities of interstate transportation and communication.

Industry: As noted above, a very large percentage of the electric energy and gas sold by the respondent is used in the automobile and automobile-equipment industries. Plants operated by General Motors Corporation alone during 1937 purchased 371,896,003 kilowatt-hours of electricity and 1,775,892,000 cubic feet of gas, paying $3,691,655 and $567,171 therefor, respectively. These plants do not have sufficient auxiliary equipment to operate without the electric energy and gas supplied by the respondent. If this supply should fail, the operations of these plants would automatically cease.

The various operating divisions of General Motors Corporation which use the respondent's power and gas send part of their products to other divisions of that company and sell the balance to General Motors Sales Corporation, which sells them to other unallied companies. Similarly, they use some raw materials supplied by other divisions of General Motors and by outside producers. Figures furnished by General Motors Corporation show that, on the average, 53.95 percent of the raw materials used by the plants served by the respondent are shipped to them from points outside Michigan. On the average, 42.09 percent of the finished products of these General Motors plants was shipped to points outside Michigan.

Several of these General Motors plants manufacture parts which are not manufactured elsewhere, and consequently are necessary to the operations of other General Motors plants which do not use electric energy or gas supplied by the respondent. Assembly plants in 13 States are dependent on the continuous operations of these parts plants. Similarly, parts plants in other States would be affected by a cessation of the operations of the automobile plants supplied with power by the respondent. Such a cessation would cause a progressive retardation of the operations of the supplier plants, as their output could not be handled. The movement of raw materials and products to and from these plants is a daily operation. An interruption in the operations of these plants, which would result from a cessation of the flow of power from the respondent, such as would tend to accompany a labor dispute between the respondent and its employees, would stop the operations of General Motors plants both within and without Michigan in a very short time and would halt or diminish the daily flow in interstate commerce of raw materials and products to and from the General Motors plants. During 1937, the operations of some of the General Motors plants were in fact halted by the strikes among the respondent's employees which are described below in section III. On two occasions the plants were shut down and the men sent home.

Other industries in Michigan use a substantial quantity of the electric energy and gas distributed by the respondent. These include machinery and metal products, chemical and allied products, foodstuffs and tobacco, and lumber and wood products. The record shows the magnitude of the operations in interstate commerce which depend on the respondent. Evidence in the record as to specific plants operating in Michigan shows their complete dependence on the respondent for electric energy and gas, their absence of auxiliary equipment, the magnitude of their operations, the amount of their shipments of raw materials and products across State lines, and the actual effect of previous strikes among the respondent's employees. Typical of such businesses and the dependence of their operations upon power supplied by the respondent is Baker-Perkins Co., Inc., which manufactures food-producing and chemical machinery. It is completely dependent on the supply of electricity and gas by the respondent, and would have to shut down in the event of an interruption of that supply. During 1937, 60 to 65 percent of the raw materials purchased by that company were shipped to it from points outside Michigan, and 90 to 92 percent of its products were shipped to points outside Michigan. Its gross sales during 1937 amounted to $4,443,169.21. The operations of this company were interrupted during 2 days by a strike of the respondent's employees.

Another instance is Kalamazoo Stationery Co. which manufactures stationery supplies, with gross sales during 1937 of $1,485,724.35. It appears that it depends entirely on the respondent for the electric energy and gas necessary to its operations, and that during the 12 months ending on October 31, 1937, 80 percent of its raw materials, and 82 percent of its products were shipped across State lines.

A final example is that of the Defoe Boat & Motor Works, which during 1937 was engaged chiefly in the building of three ships sold at a total price of $536,243, and which depends entirely on the respondent for the electricity which drives all of its machinery. Its plant was closed down during the 1937 strikes of the respondent's employees. Eighty-five percent of the materials used in production in 1937 were shipped to it from points outside Michigan, and practically its entire output for that year was shipped out of the State.

The importance of the relationship between the respondent and its industrial customers who ship and receive large quantities of goods in interstate commerce, can be seen in the statement which appears in a prospectus, dated January 17, 1938, issued in connection with a $9,000,000 bond issue, that, "The current recession in the automobile industry and industrial production generally may adversely affect the revenues of the company."

The record clearly shows the dependence upon the respondent of a large industrial area. Engaged in business in this area are concerns which daily make and receive shipments in interstate commerce. There is a constant flow of a vast amount of materials across State lines to and from companies whose operations would cease at once upon an interruption of the respondent's output of electric energy and gas. This flow would be severely diminished in the event of such an interruption. The effect on commerce of a labor dispute between the respondent and its employees involving a cessation of work upon the part of the latter would be catastrophic.

Transportation: The respondent sells electric power to several interstate railroads, including the Pennsylvania Railroad, the Pere Marquette Railway, the Michigan Central Railroad, the Grand Trunk Railroad, and the Ann Arbor Railroad. None of these roads is electrified. Testimony by representatives of the last three railroads named above shows that the power purchased by them from the respondent is used for the operation of block signals, of crossing protection signals, of watering and coaling stations, and of various repair shops, and for the illumination of shops and stations. The testimony indicates that a cessation of the power supplied by the respondent would not result in a stoppage of the train service, but that it would cause the accumulation of repair work, that it would entail greatly increased operating expenses, and that it would necessitate the use of emergency equipment in place of the electrically operated block signals and other equipment, thereby greatly increasing the possibility of a break-down in the operations of the trains.

Power supplied by the respondent operates lighthouses maintained by the Federal Government in Saginaw Bay, which is an arm of Lake Huron. Auxiliary equipment for these lighthouses is not sufficient to keep them operating in a normal fashion in case of a failure of the respondent's power. Shipping passing through the Bay would be to some extent hampered by such a failure. In addition, drawbridges across the Saginaw River, which flows into the Bay, are lifted by power supplied by the respondent. These bridges are located in Bay City and Saginaw. One of the bridges in Bay City has no auxiliary equipment, and in the event of a power failure, 15 to 20 hours would be required to put it in operation. Stipulations in the record show that a substantial amount of freight from points outside of Michigan is shipped through Saginaw Bay, past the bridges in Bay City, to points in Saginaw and between Bay City and Saginaw. The respondent also serves electric energy to a public dock in Muskegon, Mich., on Lake Michigan.

Communications: The respondent supplies electric energy to the Western Union and Postal Telegraph Systems. Both of these companies receive and transmit messages into and out of Michigan. The respondent's energy is used by them for the operation of mechanical equipment used in the sending and receiving of messages, as well as for illimunation and other purposes. They use their own power for the energy required for transmission of the messages. A failure of the respondent's power would require the sending of messages by hand, which in turn would require skilled operators who are not available at all of the telegraph offices. A representative of one of the two telegraph companies testified that in case of an unexpected cessation of the respondent's power, service would be restored to some extent in 3 or 4 hours, and to a full extent in a day and a half.

The respondent supplies electric energy to the Michigan Bell Telephone Co., the territory of which includes part at least of the territory served by the respondent. During 1937, the company transmitted messages originating in Michigan to points outside Michigan, for which the total charges were $4,065,000. Approximately 30 percent of these messages originated at stations supplied with energy by the respondent. The telephone company has auxiliary equipment which would maintain its services for an indefinite period. With regard to the illumination of some of its exchanges, however, it appears that a sudden cessation of the respondent's power, at night, would leave them temporarily in darkness. In such a case, the service would be interrupted for a period of some minutes.

The respondent supplies electric energy to seven radio broadcasting stations operating in Michigan. None of these stations has auxiliary equipment to substitute for the energy so supplied in case it is interrupted. All of them broadcast programs which originate in States other than Michigan and are sent to the station for rebroadcast. The amount of time devoted to such programs varies between 10 and 53 percent of the total broadcasting time of the stations in question. All but two of the stations broadcast electrical

transcriptions, which are sent to it from points outside Michigan, the time devoted to such programs varying from 10 to 30 percent of the total time on the air. The programs broadcast by these stations include advertising matter for articles on sale to the general public, produced by commercial firms with principal places of business outside Michigan.

It should be pointed out, with regard to both communication and transportation, that many companies which use power supplied by the respondent, but which have auxiliary arrangements to take care of a possible interruption of that power, would have to rely on batteries, small motors, and similar devices. It can readily be seen that reliance on such makeshifts would create a continuing possibility of temporary break-down. Such a change to operations on an emergency basis in itself would constitute a burden and obstruction upon these instrumentalities of commerce. Moreover, while each company, considering itself separately, might feel confident that it could procure sufficient additional equipment in case of an emergency, it may well be doubted, if all of them were faced with an interruption of service at the same time, whether all of their needs could be satisfied.

Conclusions as to the respondent's relation to commerce

It is evident from the findings above (1) that the respondent receives vast quantities of coal, as well as other commodities, in interstate commerce; (2) that the respondent ships a substantial amount of byproducts in interstate commerce; (3) that a labor dispute between the respondent and its employees would seriously affect the flow in interstate commerce of these commodities and byproducts; (4) that a large area in the State of Michigan is almost entirely dependent upon the respondent for electric energy and gas; (5) that a cessation of the flow of electric energy and gas from the respondent, such as would tend to accompany, and has in the past accompanied, labor disputes between the respondent and its employees (a) would tend to burden and obstruct the operations of various agencies of interstate transportation and communication by forcing them to use makeshift substitutes for their normal supply of power, as well as by causing, in some cases, temporary interruptions of service, and (b) would directly cause a cessation or curtailment of the operations of the businesses served by the respondent with power, which receive and ship commodities in interstate commerce, similar to that which would accompany simultaneous labor disputes in all of such businesses, thereby causing a substantial diminution in the flow of products in interstate commerce.

The respondent contends that it has scrupulously maintained a policy of avoiding interstate connections, and that its intrastate character is demonstrated by the extensive regulation by State agencies to which it is subject. It is also alleged in the respondent's answer to the complaint herein that, "it is required to serve all customers who demand or request its service, and that it is unreasonable and unlawful to determine respondent's status under said National Labor Relations Act based upon such remote and indirect consequences which respondent cannot avoid." However, the question for us to decide is, simply, what would be the effect upon commerce of a labor dispute between the respondent and its employees.[6] It is clear that the effect would be immediate and extensive. This fact is clearly demonstrated by the strikes which have occurred in the past in restricted portions of the respondent's system.

II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America is a labor organization affiliated with the Committee for Industrial Organization, herein called the C. I. O. Its jurisdiction formerly included employees of utility companies. In the latter part of January 1938, it surrendered its jurisdiction over utility workers to Utility Workers Organizing Committee. Prior to that time it had chartered separate locals for the employees of the respondent, membership in the various locals being determined along geographical lines. Local 740, which filed the charge in this proceeding, included employees of the respondent at, and in the vicinity of, Jackson, Mich.

Utility Workers Organizing Committee is a labor organization, likewise affiliated with the C. I. O. It admits to membership employees in the public-utility industry, exclusive of companies engaged in communication. It was organized in 1938 to take over that field which had formerly been within the jurisdiction of the United. The employees of the respondent who were formerly members of the various locals of the United have been transferred to corresponding locals of U. W O. C. Members of Local 740 have become members of U. W. O. C Local 101, herein called Local 101. On February 9, 1938, Local 740 surrendered its charter and received a charter as Local 101 of U. W. O. C. The other United locals since that date have similarly changed their affiliation, although at the time of the hearing not all of the 12 separate locals had received their new charters from U. W. O. C.

As noted above, the respondent objected to the motion of counsel for the Board to change the title of these proceedings, on the ground that such a motion involved a substitution of parties. It advanced the contention that the party which filed the charge was no longer in existence. Even if the respondent's contention is true and the ruling was in error, we do not see how it can affect the issues in this case, since Local 740 was in existence at the time the charge was filed. Moreover, the evidence shows that when Local 740 of the United transferred its affiliation to U. W. O. C. the entire structure of the local remained unaltered, and it continued with the same members, officers, and bylaws. It is clear that Local 101 of U. W. O. C. is the same labor organization as Local 740 of the United, and that the union which filed the charge in the proceeding is still in existence. The respondent has at all times been aware of the changes in affiliation of the C. I. O. organizations. The contracts which it has entered into with them are discussed in some detail below in section III-A. It is sufficient to state here that the first contract was made with the United Automobile Workers of America, a C. I. O. affiliate, herein called the U. A. W., and provided for a possible future change in affiliation of the contracting union. The subsequent change from the U. A. W. to the United was acknowledged by the respondent in a letter to the latter organization. Finally, on April 4, 1938, the prior agreement was altered and extended by an agreement between the respondent and U. W. O. C., in which the first contract was referred to as "the memorandum of agreement made between said parties, or their predecessors." The respondent thus treated with U. W. O. C. as the proper party with whom to negotiate an extension of the agreement originally made with the U. A. W.[7]

Independent Power Employees' Association is an unaffiliated labor organization, admitting to its membership only employees of the respondent.

III. THE UNFAIR LABOR PRACTICES

A. Background of organization among the respondent's employees

Self-organization of the respondent's employees first assumed definite form early in 1937, in Bay City and Saginaw, 2 of the northernmost districts of the respondent's widespread system. Organization soon extended to Flint and Lansing, and later to Jackson and other operating centers until, at the time of the hearing in this proceeding, 12 locals were affiliated with the C. I. O. through U. W. O. C. These locals were established in the towns mentioned above and in Manistee, Muskegon, Battle Creek, Alma, Owosso, Pontiac, and 1 other town, the name of which does not appear in the record. At present each local elects 5 delegates to the State or joint council, and from that council a 5-man executive board is elected. Each local has its own bargaining committee for the adjustment of local grievances, while the executive board negotiates with the management at Jackson concerning matters of system-wide application.

The respondent's employees in the Bay City area formed an organizing committee in January 1937. The automobile workers in Bay City were at that time being organized, and the respondent's employees enrolled in the Flint local of the U. A. W., the jurisdiction of which had temporarily been extended to include Bay City. The respondent's Bay City employees, however, elected their own officers, and set up their own 9-man committee for the purpose of negotiating with the respondent. Similar organizational activities began in March 1937 among the respondent's employees in Saginaw, a few miles south of Bay City. As in Bay City, the members of the present local were first enrolled as members in the U. A. W., but they elected their own officers and constituted a separate unit of utility workers. The respondent's employees in Flint began organizing in March 1937 and first enrolled as members in the U. A. W. In Lansing the respondent's employees began organizing in February 1937, enrolling as members in the U. A. W. local, after they failed to obtain affiliation with the A. F. of L. The record does not contain details concerning the process of organization in the remainder of the 12 locals, but most of them took form subsequent to the agreement of June 8, 1937, which is discussed below.

A conference between the respondent and representatives of the locals in Saginaw, Flint, and Bay City was held in Saginaw on April 29, 1937. Vice President M. W. Arthur and Assistant General Manager A. E. Kriegemann represented the respondent, and the C. I. O. was represented by a group of operating employees and their U. A. W. representatives. The proposals of the C. I. O. as to wages and working conditions were presented and discussed. Further conferences were held on May 4, 5, and 10. On May 10, the respondent's vice president, D. E. Karn, was present, and urged that a consent election be held, under the Board's supervision, to determine whether or not a representative had been designated by a majority of the employees throughout the system. Karn pointed out that although the C. I. O. was requesting bargaining rights only for the employees at Saginaw, Flint, and Bay City, any wage increase granted would be made system-wide. The C. I. O. would not consent to an election, and the parties left the conference in disagreement. The C. I. O. communicated with Governor Murphy, of Michigan, and a meeting of the respondent and the C. I. O. was arranged and held in the governor's office on May 11. Governor Murphy heard the opposing contentions and suggested that negotiations be continued, but that in the event of another deadlock, the parties should return to him. Negotiations were resumed in Saginaw on May 12, 13, and 14. Toward the close of the meeting on May 14, the respondent requested an adjournment of negotiations until May 18. The C. I. O. protested against the delay and attempted unsuccessfully to communicate with Governor Murphy, then in New York, but succeeded in

[6] *Consolidated Edison Co. of New York, Inc., et al.* v. *National Labor Relations Board,* 95 F. (2d) 390 (C. C. A. 2d), where the court said: "But the problem is not to be approached from the standpoint of vicarious liability. It is to be approached as a question of fact, namely, what will be the result upon commerce of a labor dispute between the petitioners and their employees."

[7] For a similar situation see Matter of M. Lowenstein & Sons and Textile Workers' Organizing Committee, Local No. 65, C. I. O., 6 N. L. R. B. 216.

reaching Homer Martin, of the U. A. W., who thereafter participated in the negotiations. On May 17, the respondent's representatives appeared at the Board's regional office in Detroit where, they claimed, the C. I. O. was to meet with them for discussion of a possible election. The C. I. O., however, did not make an appearance at Detroit, claiming that it had made no agreement to meet there. The respondent returned to the regional office in Detroit on the following day, May 18, while the C. I. O. waited in Saginaw, in accordance with the joint agreement of May 14. As a protest against the respondent's failure to attend the meeting in Saginaw on May 18, a strike was called at noon, May 19. Switches were pulled in Saginaw, Bay City, and some sections of Flint. Power was cut off and the power plants were picketed. At 9 o'clock that night, power and light service were restored following an arrangement made with Governor Murphy for a meeting with the respondent at his office the next day. Negotiations were resumed in Saginaw on May 21, when a meeting was scheduled for May 24, in New York City, at which Wendell L. Willkie, president of the respondent, and John L. Lewis, representing the C. I. O., were to be present. No agreement as to wage increases was reached at the conference in New York, and further negotiations continued in Saginaw from May 25 to June 4. On the latter date, the respondent's office employees in Flint, who had enrolled during the formation of the local in that city, went on strike in protest against the respondent's insistence that they be omitted from the bargaining unit. On June 8, negotiations were resumed in Washington, D. C., where, at about 11 o'clock that night, a contract was signed, the signatories being Willkie and Lewis.

Word that an agreement had been reached and signed was not immediately received by employees waiting in Flint, and at 2:30 a. m., June 9, another strike was called. Power was cut off in Flint, Saginaw, and Bay City, with the exception of circuits supplying hospitals, dairies, the sewage-disposal plant, jails, and other institutions. The strike did not cease until 5 or 6 o'clock in the afternoon of June 9.

The agreement of June 8, 1937, applied to all operating employees of the respondent who were or might become members of the U. A. W. or its successor, applications already having been made to the parent organization, the C. I. O., for charters covering utility workers. The agreement excluded all supervisory employees, both crew and general foremen, assistant foremen, load dispatchers, office employees, clerks, accountants, secretaries handling confidential matters, and appliance salesmen. The respondent agreed not to bargain collectively with any other organization during the life of the contract, which was to remain in force until March 1, 1938. It covered wage rates, hours, working conditions, and other matters, and established a procedure for the handling of grievances.

In December 1937, as a result of negotiations, the agreement was modified in some respects. Also in December, the C. I. O. formally requested that February 1, 1938, be fixed as the date for the opening of negotiations looking toward a new agreement. Actual negotiations for this purpose were begun on February 10. Prior to the expiration date of the original contract, a 30-day extension period was mutually decided upon.

Prior to the beginning of these negotiations in February, two other labor organizations had obtained some membership among the respondent's employees: The Independent, and International Brotherhood of Electrical Workers, herein called the I. B. E. W., the latter being affiliated with the A. F. of L. The organization of the Independent is discussed at length in section III–B below. The record in this proceeding does not show the form or extent of the organization of the I. B. E. W.

On January 20, 1938, the Independent protested to the respondent against further negotiations with the C. I. O. until majority representatives had been determined, although at that time the Independent had not sought an election. On February 3, the respondent replied to this protest, stating that it had unsuccessfully sought an election by the consent of all parties before the original agreement was signed with the C. I. O. in June 1937. In the same letter, the respondent pointed out that the I. B. E. W. had filed a petition for investigation and certification with the Board. Subsequently, on February 23, 1938, the Independent filed its petition for investigation and certification. The I. B. E. W. filed its petition on February 2, 1938.

On February 25, a temporary injunction was issued by the Jackson County court, in a suit brought by the Independent, restraining the respondent from entering into an agreement with the C. I. O. The C. I. O. filed an ancillary bill of complaint and joined with the respondent in its motion to dismiss the Independent's complaint and to set aside the temporary injunction. On March 31, the respondent notified the C. I. O. that the "status quo" of their relationship would be observed by it until the injunction was lifted or modified, but no longer than 10 days from the date of notification. The injunction was dismissed on April 2, 1938.

Not until the week preceding April 1 did the negotiations between the C. I. O. and the respondent, which began on February 10, reach the state of definite discussion of wage rates for the different classifications of employees. As the close of the 30-day extension period approached, and no agreement on the wage scale appeared imminent, the C. I. O. requested continuation of the existing wage scale for a year. The respondent countered with an offer to "peg the wages" for a period of 3 months. No compromise was reached, and on April 1, members of the C. I. O. excluded the supervisory employees from a number of gas, steam electric, and other plants in Saginaw, Bay City, Flint, and Lansing, and assumed operation of the plants. They occupied these plants until April 4, 1938. On that day, Governor Murphy called a meeting of officials of the respondent and the C. I. O. in Detroit. At the Governor's suggestion, and because of the continued controversy concerning majority representation, the respondent agreed to extend the existing contract 4 months, or until August 4, 1938.

B. Formation of, interference with, and support of the Independent; interference, restraint, and coercion

1. The Letter of June 11, 1937

At the time of the signing of the June 8 contract, no local of the C. I. O. had been started at Jackson, where the respondent's headquarters are located; nor had any other labor organization displayed activity among the respondent's employees in the Jackson division. It is significant, therefore, that almost immediately after the signing of the June 8 contract, an undetermined number of Jackson employees should have received a mimeographed letter, Board exhibit 18, purporting to come from room 306 of the Consumers' Power Co. building, the executive headquarters of the respondent. The letter is dated June 11, 1938, and reads as follows:

JACKSON, MICH., *June 11, 1937.*

DEAR FELLOW EMPLOYEE: Events of the past few weeks have given cause for grave concern to all employees of Consumers Power Co. By this time, no doubt, you have received a copy of an agreement of limited scope between Consumers Power Co. and the United Automobile Workers of America. You, no doubt, appreciate that in fairness to all employees, the company will extend to all employees any advantages accruing as the result of this agreement.

We believe that the general attitude of the majority of the employees in this connection is one of genuine loyalty to the company and its management. Appreciating the peculiar nature of the business and mindful of the many unfair and, in some instances, vindicative [sic] measures it has been subjected to, we feel that we employees are much better qualified to negotiate with the management concerning any grievances, working conditions, rates of pay, etc., that may arise.

The recent trend, as evidenced by the Wagner National Labor Relations Act, indicates that henceforth relations between employee and employer will be dealt with by collective bargaining between the management and representatives of employee groups. In this event, what is the position of the average, responsible, and fair employee of Consumers Power Co.? In our opinion, the following is about our position.

The employee may elect not to join any union or other form of labor or employee organization. In that event he may later, through no fault of his own, find himself without adequate representation.

Or, the employee may elect to join one of the existing labor organizations, such as the A. F. of L. or the U. A. W. A. In that event, based upon the history of the last few months, he may find his relations with his employer handled by representatives, not of his own choosing, having no knowledge of the business and working conditions, whose actions and decisions are dictated by outside influences and whose interest is apparently mainly of a pecuniary character.

Or, the employees may elect, as we hereby propose, to band themselves together in a solid, loyal, and truly representative-employee organization free of any outside influence. We feel that such an organization with representatives in all departments and all divisions can better represent and settle fairly with management any and all questions that may arise.

We are enclosing a confidential card which we ask that you return to us at once signifying your cooperation in this undertaking. Upon receipt of these cards it is the intention to proceed at once to the formation of such an employee organization.

Yours truly,

CONSUMERS POWER EMPLOYEES' COMMITTEE.

Accompanying this letter was a pledge card, Board exhibit 19, which reads as follows:

To Consumers Power Employees' Committee:

I am fully in accord with the statements made by the committee for an employee organization to protect my interests, and I hereby pledge my cooperation and assistance.

Signed _____
Department _____
Division_____

The return envelope, Board exhibit 20, accompanying the letter and pledge card, reads:

Consumers Power Employees' Committee,
Consumers Power Co. Building,
Room 306,
Jackson, Mich.

The identity of the "Consumers Power Employees' Committee" is not revealed in the record. Vice Presidents Arthur and Karn denied knowledge of the letter, both as to authorship and distribution. Arthur testified that for the past 2 years room 306 has been used as a storeroom. In June 1937, room 307 was occupied by Supervisor Haroldson, who has charge of gas sales and is employed by Commonwealth & Southern. The other adjacent office was an assembly room for meter readers and appliance salesmen. Executives of the respondent and Commonwealth & Southern have offices on the same floor. Arthur declared that no record of mail distribution is kept,

and that he had no knowledge as to the disposition of any return cards which might have been received in reply to the letter.

An undetermined quantity of the return cards were in the office of John Markle, general foreman of the Jackson division. Markle has complete charge of all crews operating in the Jackson division. There were 20 such crews at the time of the hearing. His immediate superior is L. E. Southard, electrical superintendent of the same division. Markle hires, discharges, and transfers, and is the man to whom all crew foremen, city foremen, and line crew employees under his jurisdiction look for supervisory advice and instruction.

Markle had knowledge of the letter. While being examined by counsel for the Board concerning the distribution to the employees of copies of the June 8 contract, he testified that he had received a "group" of the "books" to be passed out to the men, and that a letter accompanied the books. Counsel for the Board handed Markle Board Exhibit 18, and inquired if it appeared to be a copy of the letter which, according to his testimony, had accompanied the contracts. Markle examined the document and returned it to Board's counsel with the comment, "Well, this letter was posted on the bulletin board."

"Q. At the service plant?
"A. Yes.
"Q. At about the same time?
"A. Yes.
"Q. For how long—a couple, a day or two?
"A. I wouldn't be surprised if one of them was on there yet.
"Q. At any rate, it was posted?
"A. I don't know for sure. Yes. I don't know for sure whether it is down there.
"Q. Who posted it, did you post it?
"A. Well, that is something I couldn't say. * * *
"Q. Do you know where it came from?
"A. No not directly."

Following a brief recess, Markle was questioned further about this letter on redirect examination by the respondent's counsel. This time he vigorously denied ever having seen the letter, insisted that he had not read the exhibit when it was presented to him by counsel for the Board, and accused the latter of "pulling a fast one" on him. At this point the trial examiner declared for the record, "* * * from my own observation, I know that the witness did read at least the first page of that letter."

Earl C. Parker, Markle's assistant, who is himself in charge of a number of crew foremen, testified for the respondent some days later. When shown a series of bulletins and letters from the management, already in evidence, Parker denied ever having seen them, although some of them should have come to his attention as a supervisor. He was shown Board exhibit 18 and denied recollection of having seen it anywhere. He was then shown Board exhibit 19, the return card above referred to. This he identified, "Yes, I remember seeing that, seeing that card there. I saw that." Asked if it was in the possession of some employee, he replied, "No, if I remember right, there was quite a bunch of those. It was down at the service building one time."

"Q. Where in the service building? Markle's office?
"A. No; I don't think they were in Markle's office, I think they were—well, it would be Markle's office, too."

Although from the testimony of Parker, reasonable doubt may exist as to the accuracy of Markle's recollection that Board Exhibit 18 was posted on the bulletin board by him or anyone else, we find that he had knowledge of the letter, and that the return cards were in his office.

Leo C. Jensen, one of the three employees who later assumed leadership in organizing the Independent, admitted that he had heard that the letter had been circulated, had read it, and had taken part in discussion of its contents with other men in the gas-production department. It is significant that Jensen, Harry Bowersox, and Ed Youman,[8] the three men had led the organizational activity for the Independent, all came from the same department, one of those in which the letter of June 11 is known to have been read and discussed.

We find that the respondent caused the letter of June 11, the card, and the return envelope, to be circulated among its Jackson employees. We find further that they were an important factor in the formation of the Independent. Although some time elapsed between the issuance of the letter and the taking of the first formal steps toward formation of the type of organization proposed by it, the letter clearly showed the attitude of the respondent regarding the type of union which it favored. This aspect of the case is further discussed in section III B 7, below.

2. Early Antiunion Activity of Markle

Prior to the actual incorporation of the Independent and the solicitation of members in its behalf in Jackson, Markle pursued a course of conduct which was calculated to, and did, reveal to many of the respondent's Jackson employees that the respondent vigorously disapproved of the C. I. O. The effect of this campaign was to clear and harrow the ground for the fostered growth of the Independent.

A C. I. O. local was formed in Jackson during July 1937. On August 4, according to his own admission, Markle attempted to attend a C. I. O. meeting, and sharply denounced a number of employees because of their union activity. Among the employees warned by Markle on this occasion, and whose testimony was substantially confirmed by Markle himself, were Clarence E. "Red" Burke, Verne "Butch" Devine, and Murl Bolenbaugh. Markle stood across the street, observing the men as they came to the meeting. Burke testified that Markle told him that he "was making a hell of a big mistake," and urged him to "use his head." Burke overheard Markle tell other employees "not to be a damn fool." Bolenbaugh testified that Markle "wanted to know if I didn't think I was making a mistake, and that these C. I. O. fellows was pretty smart, and that they was smarter than he was and for me to watch my step."

Markle's own testimony is significant. He admitted that on "the day of August 4—on Wednesday, there was passed around * * * in a whispered voice about a union meeting. * * * I didn't know at that time there was any union activities in the Jackson division. * * * I went down there of my own personal self to see what it was all about. * * * I was on my own time, figured it was on my own time. * * * I went up in the hall and looked around * * * nobody that I knew, so I came back down * * * and went across the street and stood around a little while. * * * Burke was surprised to see me. He came over and talked to me a few minutes. * * * They didn't like my language, I guess, and they went across the road." Markle admitted expressing himself in vigorous terms, but indicated that his words were mainly addressed to an organizer with Burke; and he admitted having about the same talk with employees Devine, McFayte, and Bolenbaugh. He declared that the men "kept milling around waiting for me to leave, or something, that is my decision of it, anyway, so I finally went on down the road." In view of Markle's admissions, we believe the testimony of the C. I. O. members described above.

On the following Friday, August 6, when employees came to him for their pay checks, Markle admitted that he "asked if they would all wait a second." The door was closed; about 60 men were present. "I held one pay check up in front of me, asked them to do the same. I * * * asked them if that didn't look like a pretty good pay check. * * * I told them there wasn't a man in the crowd that ever worked for me, that ever had to buy me a glass of beer, cigar, or a loaf of bread, to hold his job, he never would have to." His meaning, he admitted, was that "no man had to join a union to hold his job with the power company." Thus, Markle, by positive action, demonstrated his resentment against the respondent's employees joining the C. I. O.

3. The Transfer of Clarence E. Burke

When Burke reported for work the morning after the meeting of August 4, he was transferred by Markle from the crew on which he had served continuously for 8 years. He had been attached to the crew known as Oliver's, one of the two crews classed by Markle as being top or special crews in the Jackson division, maintained for word "on all energized wire." The remaining 18 crews under his supervision, according to Markle's description, "work out on rural lines where there is no energized wires for them to come in contact with. In other words, they work what we call everything dead." At the time of Burke's transfer, Oliver's crew consisted of 2 first-class linemen, of whom Burke was one, 2 second-class linemen, 1 apprentice lineman, and 1 groundman, with a crew foreman in charge.

The crew to which Burke was transferred on August 5, and with which he remained for 2 months, until he was returned to his old crew following a grievance meeting with the management, was known as Gilmore's crew. L. M. Gilmore is listed as a first-class lineman, but acts in the capacity of a foreman. Until Burke's temporary transfer to it, Gilmore's crew had consisted of Gilmore and two groundmen. At the time of the hearing it was again a three-man crew. Gilmore himself described his job as that of "maintenance of street lighting, and taking care of underground vaults."

Markle admitted that he transferred Burke to Gilmore's crew on August 5. The reasons which he gave for the transfer, however, are not wholly consistent. He first declared that, having observed Burke to be active in the C. I. O., and having placed him in temporary charge of the crew the previous Monday for the week of Oliver's vacation, "I knew it was no place for a crew foreman to be, acting as an organizer and running a crew." He later explained that Burke was transferred to Gilmore's crew, "especially that date, to put in a primary metering installation for the Hardy Manufacturing at Hudson." He insisted that Burke's experience was needed on this job.

The respondent offers no testimony to show that the efficiency of Oliver's crew suffered during the first 3 days of that week, although Burke had joined the C. I. O. in July, or that Burke had attempted to organize on company time. The contention that Markle was sincerely concerned with the propriety of Burke's seeming to serve two masters fails to explain why Burke, when the regular foreman returned from his vacation, was not returned to the position which he had filled on Oliver's crew for 8 years.

Upon completion of the brief Hudson job, Gilmore's crew returned to Jackson, and resumed the task at which it had been occupied since the preceding April, the removal of steel trolley poles along Jackson's main street. This work consisted mainly of cutting down the poles with acetylene torches and trucking them to the pole yard, and was hardly on an equal plane with Markle's definition of a top lineman's customary duties. During the period before his return to Oliver's crew, Burke was also assigned to the task of cleaning insects from the boulevard lighting globes. This assignment was made in the fall, although Markle testified that this work

[8] This name also appears in the record as "Youmans" and "Yoeman."

was ordinarily performed "right after Christmas and in the summertime, early spring, rather, right after the smoke season." This variance from custom is not explained in the record. Burke testified that he felt this assignment to be "humiliating" for a top lineman, and that comment upon it became general in other parts of the system.

It is difficult to conform the facts surrounding Burke's demotion in duties to any explanation but that it was an expression of resentment against his union activities and an attempt to discourage such activities. Soon after the transfer, Markle passed by Burke and Devine at the service station and asked "how all the rats were." When Burke inquired as to which one he meant, Markle replied, "If the coat fits you, you can slip it on." We are persuaded that the transfer of Burke described above was a demotion, and that it was made with the purpose of discouraging union activity.

4. The Pole-Yard Transfer

The pole yard is a storage area for poles, transformers, and pipe used in the Jackson division. Poles of varying lengths are brought into the yard by rail, piled on bunks and piers, where they remain until hauled away for line-construction jobs. At one corner of the yard a large stock of transformers is stored; in one of two small buildings transformers are cleaned and repaired, while in the other pipe and sundry supplies are kept.

One crew, under Foreman Wayne Frushard, is regularly assigned to the pole yard. This crew unloads and draws poles, and since late in 1936 has spent much time at the task of replacing the old cement piers which are inadequate to support the weight of the poles which had increased as the respondent supplanted cedar with pine. Markle testified that the work of replacing the old piers was given to employees who otherwise might have been laid off during slack periods in line construction, instead of employing an outside contractor and labor. Respondent exhibit 42 contains a list of employees who have worked at various times at the pole yard from January 1, 1937, to May 9, 1938. This exhibit, however, does not disclose the exact nature of the work which the men performed on the duties cited. It appears, for example, that on infrequent occasions an entire crew may, in the course of its regular line-construction duties, put in all or part of a day at the pole yard loading the poles necessary for its job.

Despite Markle's insistence that work in the pole yard is more desirable than digging holes for poles, or climbing the creosote-impregnated poles on a hot day, his own testimony shows clearly that, with the exception of the few who have charge of work there, steady employment in the pole yard ranks below that of construction and maintenance crews. In commenting upon Frushard's crew he stated: "* * * when these men that I gave Frushard showed ability to want to go ahead, could go ahead, I take them off of there and put them in another ground crew that was putting on arms and things like that, gave them a chance to work up."

Frushard's crew, at the time of the hearing, was composed of employees Niles M. Sowle, William Tuippi, and one Halsey. Markle testified that these men were assigned to this crew because they had been given ample opportunity to become linemen, but had lacked the necessary qualifications. Although some significance might be attached to the fact that both Tuippi and Halsey were suddenly discovered to be lacking in linemen's requisites shortly after they joined the C. I. O., in 1937, it cannot be found that their transfer to, or continuance in, the pole yard was directed at their union activity. The case of Sowle is discussed in section III B 5 below.

Verne Devine, whom Markle admitted having seen with Burke on the night of August 4, was ordered to the pole yard Friday morning, August 6, where he cleaned transformers that day and August 9, before being transferred to Oliver's crew. Until the transfer of August, Devine had served on the same crew for about 8 years, although for a part of that time he was under a different foreman. There is no evidence that he had ever before been assigned to the task of cleaning transformers. Devine is rated as a "top" lineman. Husker's crew, to which he had been attached, is the crew which, with Oliver's crew, was characterized as "special" by Markle. It does not appear that, with the exception of his 2-day assignment in the pole yard, Devine's transfers from Husker's to Oliver's crew can be considered as demotions, either in fact or in effect.

Markle's explanation of the 2-day pole-yard episode, however, is confused and conflicting. He declared that Husker had asked to have Devine transferred out, because he was slowing up on the job. Markle asserted that prior to the transfer he and Husker had discussed Devine's membership in the C. I. O., and that Husker believed Devine was using his affiliation with the union as a leverage to lay down on the job. Furthermore, he testified, he had himself observed Devine absolutely stand around on top of the pole and not do a thing, waiting for somebody to catch him standing there. Markle placed his discussion with Husker as at least 6 days before the meeting of August 4. This testimony is in serious conflict with his following answer on cross-examination:

"Question. Did you know that Devine was a member of the C. I. O. when you took him off Husker's crew and put him on Oliver's?

"Answer. No, sir; I didn't."

It is clearly established that Markle did see Devine, among others, at the C. I. O. meeting of August 4, and that, among others, Devine was summarily transferred to other duties in the pole yard. There is no evidence that Devine, when ordered to the pole yard, was informed that he would later be attached to Oliver's crew.

Of the six men in Husker's crew in early August 1937, four had joined the C. I. O. at or before the meeting of August 4—Oscar W. Anderson, Willard Freemire, William Hendershot, and Devine. All but Devine soon resigned from the union. Devine, as has been noted, was transferred on the following day to the pole yard, and eventually to another crew. Freemire went to the pole yard on August 6, and remained there August 9 and 10, the next 2 working days. All of Husker's crew was in the pole yard on August 10, but the testimony shows that the service on the 10th was in the regular line of duty in obtaining materials for construction work.

Freemire, called as a witness by the respondent, had been elected an officer of the C. I. O. the night of August 4. He was present at Markle's pay-check lecture. He stated that he did not consider the assignment of August 6 and 9 to be a punishment or unusual, although he could not recall that he had ever been removed from his crew for pole-yard service since he had joined Hucker's gang in June 1936. Excavating piers, according to Markle's own testimony, is not work regularly assigned to second-class linemen, the rating held by Freemire. Markle's explanation of Freemire's transfer on August 6, that Husker's crew was "overloaded," is weakened by the testimony of Anderson, first-class lineman called by the respondent, who admitted that, at the time Devine and Freemire were transferred, Husker's crew was consistently busy in the normal way.

Anderson was not present at the C. I. O. meeting of August 4, but admitted having heard that Markle was there. He also admitted that sometime during August, and obviously before he resigned from the C. I. O., Markle stopped him in front of the service building and asked if he belonged to the C. I. O., to which he replied that he did.

Hendershot, another first-class lineman on Husker's crew, admitted never having seen a first-class lineman, with the exception of Devine, transferred to the pole yard for detached duty. Hendershct had joined the C. I. O. in July, paid dues for the month of August, and then let his membership lapse. He was present at the meeting of August 4, and admitted having heard "some things" about Markle's sending C. I. O. members to the pole yard.

We find that Devine and Freemire were transferred to the pole yard by the respondent for the purpose of discouraging activity on behalf of the C. I. O.; that Freemire withdrew from the C. I. O. because of his transfer; and that Anderson and Hendershot withdrew from the C. I. O. because of Markle's hostility to C. I. O. activity, manifested by the transfers and attendant circumstances described herein.

Further evidence of a purpose on the part of the respondent to discourage union activity by transferring new C. I. O. members to the pole yard is found in testimony concerning Meier's crew, also under Markle's supervision. Early in August 1937, Meier's crew included Tuippi, Simmons, Hammond, Thompson, Murphy, and Sponsler. All but Sponsler had joined the C. I. O. on or before August 4, and of these five, all but Simmons attended the union meeting that night.

Hammond was transferred to the pole yard the day following the meeting, and was kept there August 5, 6, 16, and 17. He was on vacation during the interim between August 6 and 16. Murphy was assigned to the pole yard August 6. Thompson worked in the pole yard from August 9 to 16.

Hammond was secretary of the newly formed C. I. O. local, and Murphy was a trustee. Soon after their pole yard assignment, however, Hammond, Murphy, and Thompson withdrew from the C. I. O. The three men were called to testify by the respondent; all of them denied dropping out of the C. I. O. because of the pole yard incident, and Murphy, although he joined the C. I. O. on August 3, explained his withdrawal therefrom as follows: "It seemed like all the rest of the members had petty grievances of some sort they were nursing, and I didn't have any grievance like the rest of them."

Murphy talked with Markle on Monday morning, August 9, the next working day following his assignment to the pole yard, and was thereafter instructed to join another crew, stringing poles in the country, until Meier's crew should be reassembled on August 16. None of the men on the crew to which he was temporarily assigned had been present at the C. I. O. meeting of August 4. Under all the circumstances, we find that the respondent induced the withdrawal of Murphy from the C. I. O. by transferring him to the pole yard.

Hammond quit the C. I. O. upon return from his vacation, and was then transferred back to Meier's crew. Although denying that his pole yard experience had anything to do with his withdrawal from the C. I. O., Hammond admitted that he had heard others comment upon Markle's presence outside the union meeting, and that he had been present when Markle lectured the employees on their pay checks. Asked by the Board's counsel, "Did you get the idea that Markle was friendly toward unions, from his statements there," Hammond replied, "Oh, I don't know—it was his own opinion."

Recorded facts in respondent exhibit 42 refute Markle's testimony that Hammond was sent to the pole yard only because other members of Meier's crew were on vacation. Hammond was assigned there 2 days prior to the vacation period, and remained there 2 days after Meier's crew was reassembled following the vacation. In view of all the circumstances, and because Markle's testimony is in contradiction with his own records, it must be found that Hammond's transfer to the pole yard was designed to induce his withdrawal from membership in the C. I. O.

Thompson was in the pole yard from August 9 to 18, during the week that other members of his crew were on vacation. He admitted having talked privately with Markle, following the general foreman's pay-check lecture on August 6, and recalled that both

Hammond and Murphy had been transferred from his crew prior to the vacation week. He insisted that his conversation with Markle did not relate to the pole-yard transfers. While the evidence is insufficient to show that the assignment of Thompson to the pole yard was an act of discrimination on the part of Markle, we find that Thompson's resignation from the C. I. O. is attributable to the action taken against his crew mates Hammond and Murphy, who were officers of the newly formed C. I. O. local.

Simmons worked in the pole yard during the week following his vacation, but admittedly at his own request. On the day of his return from vacation, he was instructed to report for work in Hudson. He protested against this transfer to another town, declaring that he was being removed from Meier's crew in disregard of seniority. Markle pointed out that he was handling such matters, but permitted Simmons to remain in Jackson another week, to take care of personal details, and work in the pole yard. The record shows that both Thompson and Murphy were employed after Simmons, but Markle maintained that Simmons had been originally hired for Hudson service, although he had subsequently exchanged jobs with a Jackson employee, and that therefore he was properly selected to return to Hudson. Markle's denial of knowledge that Simmons was a C. I. O. member is contradicted by the testimony of one of his own foremen, Robert M. McDonald, in charge of the two Hudson crews. Donald W. Darby, a Hudson employee, testified that McDonald, just before Simmons was transferred there, informed "the whole bunch" that "we have got a C. I. O. member coming down," and told them that every time he was thrown in the lake they would get a case of beer. McDonald admitted the incident in substance, but characterized the offer as a joke. While in Jackson, McDonald explained, he had been told by Markle that Simmons was to be transferred to his supervision. At the same time he overheard men in Markle's office "laughing and talking" about "someone offering a case of beer to anybody * * * that threw any C. I. O. member in the creek or river or lake, * * * and I don't know to this day who offered the case of beer." McDonald declared that he almost always tells "the boys anything I found out in the way of gossip." There is no evidence that Simmons was ever molested.

The testimony of many witnesses shows that it was known generally in the Jackson district that transfers of C. I. O. members to the pole yard had been made. As noted above, crews commonly made short stops in this storage area to get supplies. On these visits they were able to see that the transferred men were no longer engaged in their regular duties.

The events described above persuade us that Markle made use of the device of transferring men to the pole yard for the purpose of discouraging the C. I. O. activity which he had discovered. It also appears clearly that the device was effective in several cases. It should be noted that all six men who, as mentioned above, withdrew from the C. I. O. in mid-August, at the time of or subsequent to the pole yard transfers, later became members of the Independent. Although some of the men in question testified that the transfers were not the cause of their dropping from membership in the C. I. O., we do not believe this testimony. The series of events described above convinces us that these men were intimidated and that that intimidation continued to have effect up to the time of the hearing before the trial examiner.

5. The Transfer of Niles M. Sowle

On or about September 1, 1937, Lisle Goff, a gas trouble man at Jackson, was called into Markle's office. Goff is a brother-in-law of Sowle, an apprentice lineman mentioned above as being a member of Frushard's pole-yard crew. Goff, who is a member of the Independent, testified that Markle first inquired if Sowle was a relation of his. Upon receiving an affirmative answer, Markle said, "If you do see him—will you try and see him and tell him not to have anything to do with the C. I. O."; and further, "if he thought anything of his job, tell him not to have anything to do with the C. I. O." Goff's testimony was unrefuted.

About a month later Sowle was instructed by Markle to report for work at Jonesville. Sowle protested against the transfer, pointing out that men with less seniority than himself were being kept in Jackson. Markle told him that he was being sent to Jonesville as a promotion. Sowle reported as instructed, and was sent out with a line truck and crew, supervised by Foreman Myles Beattie. That noon, according to his testimony, Sowle found his lunch box "full of grease," and that night the air had been let out of his automobile tires. The following noon, he testified, "after I had ate part of my sandwiches I found there was something in them which smelled like kerosene." He was sick that night, and under the care of a physician for 2 weeks thereafter. Immediately upon his return to Jackson from Jonesville, Sowle reported his experience to Burke, head of his local, and Burke entered a complaint with Superintendent Southard, Markle's superior. When Sowle reported for work 2 weeks later, Southard "apologized" to him and said "it wouldn't happen again." Sowle was told that Foreman Beattie had been laid off for a week, that half of the crew at Jonesville had been "put on breaking up scrap iron at the waterworks at Reading, and the other half had been put tearing down the chimney in Jonesville." Sowle was questioned on this point by the respondent's counsel:

"Q. And you understood, did you, from Mr. Southard's conversation that the punishment that he spoke of as to the crew and the foreman was because of their action in connection with you?

"A. That is what I understood."

Foreman Beattie and members of his crew were called by the respondent, and all denied tampering with Sowle's food or tires. Beattie, however, admitted that he had been told by Parker, prior to Sowle's transfer from Jackson, that a new man was being sent to him and "that he belonged to the C. I. O., to be very careful there was nothing done to injure him any way." He denied knowledge as to why Parker should voice this caution, "other than he always tells me to be very careful of any new man he gives me." Parker admitted the advice, and gave as a reason for it the fear of possible accident, and the fact that he was "proud of the safety record." Questioned further by the Board's counsel:

"Q. When you told Beattie that Sowle was coming over and he was a C. I. O. man, why did you bother to go on and warn him against discrimination?

"A. I thought that he ought to know if he belonged to the C. I. O. I understood that he did, that he was a C. I. O. member. Being a foreman of a crew, I thought it was to his advantage to know that he belonged to the C. I. O."

Although Southard assured Sowle that Beattie had been punished by a 1-week lay-off, it is revealed by Board exhibit 64, his payroll record, that the latter was in fact rewarded. On the Friday prior to October 18, Southard informed him that he would be laid off the following week. During the week of this announcement, Beattie was credited with 12 hours overtime at time and a half. He was absent from duty from Monday through Friday, October 18 to 22, but on the succeeding Saturday and Sunday put in 8 hours at time and a half and 8 hours at double time. During the week preceding October 18, he earned $19.80 above his regular weekly rate, and during the week of his lay-off he received $30.49. The exhibit shows that for the 3-week period preceding, during and following his lay-off, he earned the sum of $138.60, an average of $2.20 per week above his regular weekly rate. Beattie testified that during the week preceding his appearance on the stand he got in 3 hours' overtime, and that some weeks he averages more, and some less. It is evident that Beattie, in effect, received a 5-day vacation with pay.

We are convinced that the transfer of Sowle to Jonesville was made because of his membership in the C. I. O., with the expectation that he would be mistreated there. The warning given to Sowle through Goff, the advance notice of his arrival in Jonesville as a C. I. O. member, and the other facts described above leave room for no other conclusion.

Markle's active efforts to discourage membership in the C. I. O., in the Jackson division were the subject of negotiations between management and C. I. O. representatives at a meeting on October 12. The latter demanded that Markle be discharged. This action the management refused to take, despite the fact that Southard had given him a warning in a letter dated August 9. Arthur testified that on the same day, October 12, he threatened Markle with disciplinary measures "if he would be guilty of any such discrimination in the future." On the following night Arthur called a meeting of managers and general and crew foremen, "to acquaint these men with their responsibility to the company in maintaining a neutral attitude toward any labor organization." Subsequent to October 12, Markle engaged in no further antiunion activity, nor were any complaints made by the C. I. O. concerning such activity on his part.

6. Other Discouragement of Union Activity

The record contains evidence of other incidents of interference and coercion on the part of responsible agents of the respondent, although mainly of minor and cumulative nature. These occurrences indicate that, while its activity became less apparent, the respondent continued to express disapproval of, and to discourage membership in, the C. I. O., not only subsequent to Southard's letter to Markle of August 9, but after Arthur's warning to all foremen in October.

Donald W. Darby, a Hudson employee, testified that in mid-January 1938 he was interviewed while on the job by McDonald, city foreman at Hudson. McDonald called Darby to his car and asked him why he had joined the C. I. O. Darby replied that he did not like the way things were being run down there. McDonald told him, "Well, you know I will catch the devil for it." McDonald admitted Darby's testimony in substance, but explained that he feared Darby had something against him personally.

Some indication of Foreman McDonald's early attitude toward the C. I. O., before the Jackson local was formed, is established by the unrefuted testimony of Clark D. Bolenbaugh, a Hudson employee. Bolenbaugh declared that when McDonald passed out printed copies of the June 8 agreement to employees in Hudson he said, "We wasn't under those agreements and we didn't have to sign up anything, that we would get our same rights." McDonald's active support of the Independent is discussed below.

7. Organization of the Independent

We have previously discussed the responsibility of the respondent for the letter of June 11, 1937. The events which followed its issuance show its connection with the formation of the independent.

The independent first appeared in the open on or about September 21, 1937. The three leaders were Leo C. Jensen, Harry Bowersox, and Ed Youman, all maintenance men employed at the respondent's gas-production plant in Jackson. Youman became the first president, and was later succeeded by Jensen, who was president at the time of these proceedings. Youman was not called to testify at the hearing. Although both Jensen and Bowersox testified that they had entertained the idea of such an organization, and Jensen declared that he had even discussed it, prior to June 1937, it must be borne in mind that no concrete steps were taken with regard to formation

of the independent until after the receipt and discussion of the letter of June 11, in effect a circularized proposal from the management.

During the summer following the issuance of the June 11 letter, Bowersox consulted Wirt King, Jr., who was at that time a member of the firm of counsel which represented the respondent in these proceedings, with reference to the formation of an independent organization of the respondent's employees. Bowersox did not testify as to this conference with King, but Jensen, to whom Bowersox reported, recalled that Bowersox understood that King "could be retained for that purpose." There were no further activities toward the formation of an organization, however, until after the end of the summer, and the commencement of activity on behalf of the C. I. O. in Jackson.

Bowersox and Jensen sent invitations to employees throughout the system to attend a meeting, scheduled for September 21, at the Colonial Theater in Jackson. On that date about 200 employees gathered to hear one Joe Allen, an employee of the Michigan Bell Telephone Co., describe the set-up of the independent organization of that company. Jensen testified that Allen had been suggested to him by some other employee. Wendell Bather, plant chemist at the Jackson gas plant, presided, at Jensen's request. Representatives of various departments were selected at this meeting to convene at a later date.

Among the supervisors and foremen who attended the Colonial Theater meeting were Parker, Markle's assistant; Joseph A. "Red" Sheets, in charge of three tree-trimming crews and their foremen; and McDonald, in charge of the crews and foremen at Hudson. Sheets was nominated "for some office," but did not accept. McDonald was selected as a Hudson representative. In direct contrast to Markle's vigorous disapproval of employees joining the C. I. O. and his surveillance of that organization's meeting on August 4, the attendance and participation of his assistant Parker and two other supervisors at the first gathering of the independent served as genuine support, by agents of the respondent, to the latter organization.

Although the exact sequence of events is not clear, it appears that soon after the Colonial Theater meeting petitions were passed among employees in the Jackson division upon which they indicated their support of an independent organization. One of these petitions appears in the record as Board exhibit 36, and was drawn up, according to his own testimony, by McDonald. The typewritten heading of this exhibit originally read:

"We, the undersigned, are interested in an independent labor bargaining [sic] organization, and authorize K. Reed and R. McDonald to act as our representative."

McDonald called a meeting of all his Hudson employees, following the Colonial Theater gathering, outlined the purpose of the independent, and then helped Kenneth Reed, a Hudson employee, line up some of the men in his crews. A majority of the 26 employees whose signature appears on Board exhibit 36 subsequently became members of the independent, although the petition itself was never returned to the officials of that organization. It is clear that McDonald, a supervisory employee, took an active part in the formation of the independent and contributed his support to it.

Sheets has charge of the respondent's tree-trimming crews in the Jackson division, consisting of 3 crew foremen and their 14 men, and is under the immediate supervision of Markle. Sheets admitted having attended the Colonial Theater meeting with his superior, Parker, and an employee, Kenneth Meek, and that he was then nominated for some office but did not accept. Frushard, foreman of the pole-yard crew, testified that Sheets and Meek drove into the yard one morning during working hours in Sheets' truck and that Meek got out and handed a sheet of paper to Frushard's truck driver. The driver could not read without glasses and passed the paper to his foreman, who read the heading aloud. The text of the heading, according to Frushard's recollection, was "I am in favor of an independent union and I will not join any other." Frushard testified that he declined Meek's invitation to sign it himself. Frushard also testified that Sheets asked Verne Stanfield to sign, and that Stanfield did so. Sowle, who was then working in the pole yard, testified substantially as did Frushard. Meek admitted the incident in part, recalling that "somebody," whom he could not identify, had given him the petition to be circulated at the service building, before accompanying Sheets to the pole yard that morning. Meek denied, however, that Sheets knew anything about his possession of the petition. Sheets denied any knowledge of the petition or that he had asked for the signature of Stanfield. Stanfield was not called on to testify. Both Sheets and Meek are in substantial agreement that their main errand, that morning, was to visit the pole yard and other crews before Meek took over a truck and tree-trimming crew as foreman.

In view of the fact that Sheets and Meek were close friends and had gone to the Colonial Theater meeting together, and the fact that no steps had as yet been taken by the leaders of the independent to exclude supervisory employees from participation in its affairs, we do not believe it possible that Sheets had no knowledge of the petition which Meek was carrying. The story of these two witnesses is unconvincing. We find that, as Sowle and Frushard testified, Sheets, together with Meek, solicited signatures on behalf of the independent.

Representatives of different departments, selected at the Colonial Theater meeting on September 21, including McDonald, met in a private dining room of the Hotel Hayes in Jackson a week or 10 days later. At this meeting Jensen and Bowersox were selected as a committee of two to seek legal advice looking toward incorporation of the independent. Bowersox sought the advice of Wirt King for a second time, subsequent to the meeting at the Hayes Hotel. On this occasion the attorney informed him that he would be unable to act for the organization, since he was retained to represent the respondent in other matters. Following King's refusal to serve as their legal adviser, Frank C. Painter was retained by Jensen and Bowersox. Painter drew up incorporation papers for the Independent, which were signed on October 13, and filed with the Michigan Corporation and Securities Commission on November 1, 1937.

Subsequent to the incorporation of the independent, its organizational efforts were projected beyond Jackson, into other centers of the respondent's system. Roy Lee Lepley, an employee of the respondent at Jonesville, testified that Beattie, the foreman of the crew to which Sowle was temporarily attached, was present at an organizational meeting of the independent held in Jonesville. The meeting was not held on company property, or during working hours, but Lepley testified that a number of other crew foremen were present, including Ray Randall, Dick Barger, Jonas Schumann, Rex Shea, Milton Smith, and Harold Kraft, practically all of the foremen with headquarters at Jonesville. None of these foremen with the exception of Beattie, were called by the respondent to testify. Beattie did not recall the meeting about which Lepley testified but denied that he had attended any independent meeting. One witness who testified on behalf of the respondent, denied that any foremen were present at the Jonesville meeting, although he also stated that he could not remember everyone who was there. Even if we accept Beattie's denial, concerning the weight of which there is some doubt, in view of the Sowle incident, the detailed testimony of Lepley as to the presence of other foremen appears to us more credible than the general denial described above. We find that by the presence of its agents at an organizational meeting, the respondent provided open support to the extension of the independent's activities to Jonesville.

Glenn Piper, line foreman at Ionia, was present at an organizational meeting of the independent, held south of Lansing, in February 1938. Vernon A. Burch, street department foreman in Flint, attended a similar meeting in that city during March 1938. Foreman Metzgar attended the Alma meeting which took place during February 1938, but was asked to leave. These cases are in marked contrast to the active discouragement of the formation of the C. I. O. local in Jackson, described above. Furthermore crew foremen continued to attend independent meetings even after they had been declared ineligible for participation in that organization.

8. Status of Foremen

Vice President Arthur testified that crew foremen direct the work of from 1 to 10 men, usually away from headquarters. Crews are of varying types, including line, street-department, trouble, tree-trimming, and transformer crews. The foremen are paid from $4 to $6 a week more than top linemen in their crews. They assign individual tasks to the men under them. Vice President Frank G. Boyce testified that crew foremen occasionally have the power to hire local labor. The recommendation of crew foremen as to general hiring is considered, although employment is ordinarily handled by the respondent's personnel department. Crew foremen have the power to recommend promotion, discharge, and discipline of the employees under them. When, in October 1937, Arthur called all supervisors in the Jackson division together to warn them against discriminatory acts, the crew foremen were included.

Thus, from the testimony of executive officers, as well as the employees themselves, it is clear that the respondent has conferred power upon its crew foremen which enables them effectively to coerce the employees and to interfere with their right to self-organization.

As described above, Markle, Parker, Sheets, and McDonald possess even greater supervisory powers than the crew foremen. The latter, looking to them for guidance, unquestionably charted their activities against the C. I. O. and in support of the independent in accordance with the course so clearly defined by their superiors.

C. Conclusions as to the unfair labor practices

Several of the occurrences discussed above, which constituted part of the respondent's dual campaign of discouraging membership in the C. I. O. and of encouraging membership in the independent, were, if considered alone, acts of interference with and coercion of its employees in their right of self-organization. Among these incidents are Markle's surveillance of the C. I. O. meeting on August 4, 1937, his disapproval of that organization and its activity so vigorously expressed on that occasion to a number of employees under his charge, and his lecture to some 60 employees 2 days later, when distributing pay checks. The transfer of Burke, head of the C. I. O. local, from the crew to which he had been attached for 8 years, on the day following Markle's surveillance of the August 4 meeting, and the accompanying transfers of men to the pole yard, all constituted acts of restraint and coercion. We have already found that these acts effectively caused withdrawals from the C. I. O. membership and that they were designed for that very purpose.

Markle's efforts to discourage membership in the C. I. O. did not cease following Superintendent Southard's letter of August 9, relating to discrimination. His advice to Goff that he attempt to persuade his brother-in-law, Sowle, to have nothing to do with the C. I. O. constituted flagrant interference, particularly when followed by Sowle's transfer to Jonesville, where more vicious measures were taken to discourage his membership in the C. I. O.

Nor is the evidence of interference restricted entirely to Markle's acts. McDonald, supervisor of crews at Hudson, exceeded the limits

of management neutrality when he informed employees under him, at the time of distributing copies of the contract of June 8, that they were not "under those agreements," that they did not have to sign anything but would get their "same rights." He exercised more positive interference when he took Darby to task for joining the C. I. O.

It further appears that all of these acts, unfair labor practices of interference and restraint, were of a pattern with a design of the respondent to foster and support the formation of an independent organization.

The respondent introduced evidence showing that early in August, after complaint by the C. I. O., it instructed Markle and other superintendents to refrain from activity directed against the C. I. O. Nevertheless, such activity continued after the instructions were given. Whatever instructions the respondent may have given his employees, it remained responsible for their acts of coercion and interference.

We find that by the acts above mentioned, as well as by other acts described in section III–B, above, the respondent interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in section 7 of the act.

The acts which we thus find to have been separate unfair labor practices also constituted part of the respondent's effort to substitute for the organization which had gained a foothold among its employees an organization of the respondent's choosing. The letter of June 11, 1937, showed the desire of the respondent to foster a "loyal" organization limited to its own employees. The subsequent conduct of Markle and other supervisory employees tending to discourage activity on behalf of the C. I. O. further prepared the ground for such an organization. Finally, the respondent, through its agents, participated in the formation of the independent, and in its subsequent activities, and lent active support and encouragement to the independent.

While it is contended that, following the adoption by the independent of bylaws, and the employment of Painter as legal advisor, foremen were excluded from formal participation in the Independent's affairs, the findings above show that crew foremen, garage foremen, and others with supervisory powers continued and persisted, throughout the winter and spring of 1938, in attending organizational meetings of the independent, and in permitting solicitation by independent organizers on company premises and during working hours. Thus the mere procedure of refraining from soliciting foremen's membership, on the part of the independent organizers, did not and could not effectively refute the belief of many employees that the respondent, through its agents, was continuing to encourage the growth of that organization.

We find that the respondent has dominated and interfered with the formation and administration of the independent, and has contributed support to it, and that by so doing it has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in section 7 of the act.

At the commencement of the presentation of its defense, counsel for the respondent stated:

"And without admitting the commission of any unfair labor act or practice the respondent will further show that all charges and allegations of unfair labor practice stated in this hearing have heretofore been presented by the complaining union to the respondent in meetings held in accordance with the procedure outlined in the existing contract between the complaining union and the respondent, and that all of such claims and allegations were, after negotiations between the parties, fully and completely settled, compromised, and adjusted.

"And that even if any such claims and allegations could be held to be unfair labor practice within the meaning of the act, that all of such claims and allegations have become moot, and having been settled and adjusted that there is no relief to be administered by the Board and the National Labor Relations Act, if applicable, having been held to be remedial, has no application."

A sufficient answer to the respondent's contention may be found in section 10 (a) of the act, which provides:

"The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise."

However, a further answer to the contention is found in the fact that while many of the discriminatory acts complained of by the C. I. O. were remedied by the respondent after protest had been made, this did not dissipate the most important effect of those acts, namely, the manifestation of hostility toward the C. I. O., and of friendliness toward the independent. This is particularly true in view of the fact that the adjustment of one set of grievances never prevented the commission of a fresh series of acts of discrimination by the respondent's agents. The situation thus presented was that members of the C. I. O. were impressed with the fact that their membership laid them open to the hostility of their supervisors, and that they might at any time be called on to go through the machinery laid down in the contract for the correction of abuses. The mere fact that the respondent made such corrections in many of the cases concerning which complaint was made does not, and did not remove the effect of the acts of its supervisors.

The respondent also sought to show that all those who testified concerning acts tending to discourage membership in the C. I. O. were not in fact discouraged. We have found above that in some cases at least the respondent's efforts to halt the self-organization of its employees were successful. But even if this were not clearly shown, it would not remove the respondent's conduct from the sphere of the act. Such conduct, whether successful or not, constitutes unfair labor practices which it is the Board's duty under the act to prevent.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the respondent set forth in section III above, occurring in connection with the operations of the respondent described in section I above, have a close, intimate, and substantial relation to trade, traffic, commerce, transportation, and communication among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

We have found that the respondent dominated and interfered with the formation and administration of the independent, and contributed support to it. The mere withdrawal of the respondent's domination, interference, and support of the Independent will not be sufficient to overcome the impression created by the circumstances which surrounded its origin. Therefore we will order the respondent to cease and desist from the unfair labor practices described above and also to refrain from recognizing the independent as an organization representative of any of its employees for the purpose of dealing with it concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of work.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. United Electrical, Radio & Machine Workers of America; Utility Workers Organizing Committee and Local 101 thereof, formerly known as Local 740 of the United; and Independent Power Employees' Association are labor organizations within the meaning of section 2 (5) of the act.

2. By its domination and interference with the formation and administration of the independent, and by contributing support to it, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of section 8 (2) of the act.

3. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed by section 7 of the act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of section 8 (1) of the act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of section 2 (6) and (7) of the act.

ORDER

Upon the basis of the findings of fact and conclusions of law, and pursuant to section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Consumers' Power Co., a corporation, and its officers, agents, successors, and assigns, shall—

1. Cease and desist—

(a) From in any manner dominating or interfering with the administration of Independent Power Employees' Association, or with the formation or administration of any other labor organization of its employees, or contributing support to the independent or to any other labor organization of its employees;

(b) From in any other manner interfering with, restraining or coercing its employees in the exercise of their right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid and protection, as guaranteed in section 7 of the National Labor Relations Act.

2. Take the following affirmative action which the Board finds will effectuate the purposes of the act:

(a) Refrain from recognizing Independent Power Employees' Association as representative of any of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of work;

(b) Immediately post in conspicuous places throughout the various plants in its system, including among such places all bulletin boards commonly used by the respondent for announcements to its employees, notices stating (1) that the respondent will cease and desist in the manner aforesaid; and (2) that the respondent will refrain from recognizing Independent Power Employees' Association as representative of any of its employees for the purposes of dealing with the respondent concerning grievances, labor disputes, rates of pay, wages, hours of employment, or other conditions of work;

(c) Maintain such notices for a period of at least thirty (30) consecutive days from the date of posting;

(d) Notify the regional director for the seventh region in writing within ten (10) days from the date of this order what steps the respondent has taken to comply herewith.

[U. S. Circuit Court of Appeals, sixth circuit. No. 8180. *Consumers Power Company, a Corporation, petitioner,* v. *National Labor Relations Board, respondent.* Petition to review and set aside an order of the National Labor Relations Board. Decided June 27, 1940]

For the Board: Argued by Mr. Phillips. On the brief: Messrs. Fahy, Watts, Knapp, Phillips, Edises, and McCalmont.

Before Simons, Allen, and Arant, circuit judges.

Simons, circuit judge: The initial question to be determined is the jurisdiction of the National Labor Relations Board over the petitioner under section 10 (a) of the National Labor Relations Act,

which empowers the Board to prevent any person from engaging in any unfair labor practice affecting commerce.

The petitioner is an operating utility, subsidiary of Commonwealth & Southern Corporation. It is organized under the laws of the State of Maine but confines its operations exclusively to the State of Michigan, its policies being directed from its general offices in the city of Jackson. It is actively engaged in furnishing electric energy, natural and artificial gas, central heating, and in a limited degree water, to customers located for the most part within the southern peninsula of Michigan and in geographical area which includes important industrial centers, such as Bay City, Saginaw, Flint, Jackson, and Kalamazoo. As incidental to its utility business, it also sells electric appliances within its territory and operates hydroelectric developments on the Muskegon, Manistee, Au Sable, and Kalamazoo Rivers. All of its electric energy is generated within the State and none of it is sold for consumption or use outside of the State. Its gas is likewise manufactured or produced and sold within the State, it having no gas lines or electric connections extending to or from any other State or crossing any State line. It employs upward of 6,000 persons, among whom are members of three union organizations, the selection of a representative bargaining agency by a run-off election being still undecided. (See *International Brotherhood et al.* v. *N. L. R. B.* (105 Fed. (2d) 598 (C. C. A. 6), 308 U. S. 413).

The petitioner contends that it had, for a long time, been its established policy to confine its business activity to the State of Michigan; that in pursuance of that policy it had studiously avoided making connections with or giving service to anyone which would make it possible to constitute its business interstate in character, and, as evidence of its effort to confine its operations exclusively to the State, it had required prospective purchasers of power to sever use of out-State connections before it would deliver power to such purchasers; that its transmission system has been so developed and integrated that it would remain without relation to or connection with any property or business outside of its wholly localized intrastate network in Michigan.

While the petitioner purchases fuel from points outside of the State of Michigan, its purchases during 1937, amounting to $1,835,000, and while it buys appliances for resale from without the State amounting annually to approximately $1,300,000, it says that all appliances, materials, and commodities go into stock rather than into immediate use or consumption, and are commingled with similar property already on hand, so that interstate shipments have come to rest within the State long before consumption occurs. It ships a relatively small amount of byproducts, such as tar, ammonia, ammonium sulfate, and drip oil, outside of the State, but these byproducts are insignificant, amounting to but one-twentieth of 1 percent of its gross business, and are but a mere incident rather than a primary or essential purpose of its business activities. It sells electric energy to four interstate railroads, the Ann Arbor, the Grand Trunk System, the Pere Marquette, and the Michigan Central, for the purpose of lighting stations, crossings, shops, and yards, for water pumping, and for telegraph and signal purposes. Representatives of each of the four railroads testified, however, that if there were a complete failure of power from the petitioner, there would be no substantial interruption of service on their roads. The petitioner also furnishes electric energy to the Western Union and Postal Telegraph Cos., and the Michigan Bell Telephone Co. for message transmittal, time clocks, and other functions, but its evidence is to the effect that the services of these utilities would not be interfered with by a failure of electric energy, and that during a strike when power was shut off in Saginaw and Bay City, the telegraph companies switched promptly from the teletype to the Morse system without interruption of service, while the telephone company has other sources of electric energy upon which it relies. As an aid to navigation, the petitioner furnishes electric energy for the operation of vehicular and railroad bridges across the Saginaw River at Saginaw and Bay City, but these bridges are also equipped for mechanical or steam operation, and failure of electric power would not in any wise impede navigation.

Finally, the record shows that in the area served by the petitioner, there are over 250 private industrial plants which it supplies with either gas or electricity, either totally or in large part dependent upon petitioner's power for the continuation of normal manufacturing operations, and that cessation of petitioner's service would suspend interstate shipments of more than $20,000,000 per annum flowing into Michigan, and more than $65,000,000 per annum moving out of Michigan. Among these industrial plants are the E. I. du Pont de Nemours & Co. plant at Flint and 17 plants of the General Motors Co. Of the latter only two, the Buick and Chevrolet plants in Flint, have auxiliary generating equipment, and these generate but 10 and 20 percent, respectively, of their own requirements. Moreover, a shut-down of the plants dependent upon petitioner would cause a shut-down of the Cadillac and Chevrolet plants of General Motors in Detroit, and its Oldsmobile plant in Lansing, which, while not supplied with electric energy by the petitioner, yet depend entirely upon the Saginaw and Flint plants for parts. Not only are the General Motors plants in Michigan so dependent, but its assembly plants in 13 other States would likewise have to cease operations if the Michigan plants became idle through failure of light and power.

Confining ourselves for the moment to that phase of the petitioner's business which involves purchase of fuel and appliances shipped to it from without the State and sold or consumed wholly within the State, to its business in the sale of byproducts outside the State, and to its furnishing of light and power to interstate railroads and bridges spanning navigable streams, and to telegraph and telephone companies, it would seem to be clear, under the reported decisions, that the petitioner is engaged, in a substantial way, in interstate commerce, or that the impact of a labor controversy which shuts down its plants and hydroelectric developments, would substantially and directly affect the flow of interstate commerce into and from the State of Michigan. The petitioner's contention that the interstate railroads, bridges, telegraph and telephone companies would be but momentarily affected, and that its interstate business in byproducts is relatively small even though actually substantial, must, it seems to us, be rejected upon the authority of *N. L. R. B.* v. *Fainblatt* (306 U. S. 601), and *N. L. R. B.* v. *Bradford Dyeing Association* (— U. S. —), decided May 20, 1940. In the first of the references it was said:

"Nor do we think it important, as respondent seems to argue, that the volume of the commerce here involved, though substantial, was relatively small as compared with that in cases arising under the National Labor Relations Act which have hitherto engaged our attention. The power of Congress to regulate interstate commerce is plenary and extends to all such commerce, be it great or small." In the second case the Court rejected the conclusion of the circuit court of appeals that a business in waste products sold in interstate commerce, which did not exceed 1 percent of the total goods processed, was but a mere incident to which the maxim de minimus might be applied.

These activities aside, however, it seems abundantly clear that a stoppage of power supplied to the numerous plants in the great automobile industrial area, which includes Flint, Pontiac, Jackson, and other cities in Michigan, the closing of which would affect other great industries in Detroit and throughout the Nation, establishes the jurisdiction of the Board over the petitioner under the terms of the act. Not only would interstate commerce be affected, but the effect would be as catastrophic as that pointed out in *Consolidated Edison Co. of N. Y. et al.* v. *N. L. R. B.* (95 Fed. (2d) 390, 394 (C. C. A. 2), affirmed 305 U. S. 197). The distinction which the petitioner seeks to make between that case and the present controversy is tenuous. The Commonwealth Edison Co. came within the purview of the National Labor Relations Act, and under the jurisdiction of the Board, not because its customers were instrumentalities of interstate or foreign commerce, but because labor strife, which would curtail its service, would directly and immediately affect commerce. The existence in the present case of an intervening private agency over whom the employer has no authority or control, is of no moment, since it is plain that the effect on commerce would be immediate and, in a realistic sense, direct. The distinction here urged is fanciful, for in its effect upon commerce the business of the petitioner is not insulated by the mere fact that the General Motors Co. and the Du Pont Co. are corporate entities engaged in manufacture rather than in transportation. The effect of labor strife in the petitioner's plants upon the shipment of goods from Flint, Pontiac, and Detroit would be felt immediately, and there is no sound principle by which processing of manufactured goods coming into or leaving the State, as affecting commerce, is to be distinguished from supplying power as an indispensable element in such processing. As was said by the Chief Justice in the Commonwealth Edison case, "In determining the constitutional bounds of the authority conferred, we have applied the well-settled principle that it is the effect upon interstate or foreign commerce, not the source of the injury, which is the criterion."

An added ground for the petitioner's assault upon the jurisdiction of the Board is the alleged inadequacy of the charge which initiated the inquiry, and the inadequacy of the complaint by which the Board sought to apprise it of the unfair labor practices in which it was thought to have engaged. Particularly, it complains of the Board having taken jurisdiction upon a charge failing to conform to its own rules and regulations which (art. II, sec. 4) require that the charge contain the full name and address of the person or labor organization making it, the full name and address of the person against whom the charge is made, and a clear and concise statement of the facts constituting the alleged unfair labor practice affecting commerce, with the names of the individuals involved, and the time and place of occurrence. It asserts that the charge accuses it of the violation of section 8 (1), (2), (3) of the act, but in the general language of the statute, with an additional paragraph which charges that it dominated and interfered with the formation and administration of the Independent Power Employees Association, and that the complaint subsequently issued by the Board, while more elaborate in form, merely charges the petitioner with violation of the act. It asserts that not at any time was it furnished with specific bases either for the charge or the complaint until proposed findings of fact and conclusions of law were served upon it after the termination of the hearing.

It is to be noted, in this connection, that the unions with members among the employees of the petitioner, were the United Electric Radio and Machine Workers of America, and its successor the Utility Workers Organizing Committee, affiliated with the C. I. O.; the International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor, and later, the Independent Power Employees Association, organized by the petitioner's employees, and having no affiliation. The charge was lodged with the Board on February 2, 1938, by the C. I. O. affiliate, and accuses the petitioner of interfering with, restraining, and coercing its employees in the exercise of rights to self-organization, to bargain collectively through

representatives of their own choosing, and to engage in concerted activities for purpose of collective bargaining, mutual aid and protection, and accuses it of dominating and interfering with the formation and administration of the independent, the domination and interference consisting of acts restraining the employees' freedom of choice, and the form or character of representation, forcing upon them the Independent and maintaining control and domination over it, and discriminating in regard to tenure and condition of employment in order to discourage membership in the affiliated unions. The complaint is, however, more specific. It charges that the petitioner, since about April 1, 1937, and down to its date, dominated and interfered with the formation of the Independent by contributing to its support, by making known to its employees hostility to the C. I. O. union, by encouraging membership in the independent; by giving public credit to it for having procured beneficial changes in terms of employment for which the independent was in no way responsible; by discriminating in the tenure of employment of both ordinary and supervisory employees for the purpose of encouraging membership in it and of discouraging membership in other unions; by permitting solicitation of members of the independent on its premises and during working hours; by permitting meetings of the independent on its premises and giving it the use of its automobiles or gasoline for organizational purposes; by favoring its members in the assignment of desirable work and discriminating against others in the assignment of work, and by open surveillance by its executive employees of meetings of the C. I. O. union and threats of discharge or discrimination in the assignment of work, and by other means.

While the hearing ranged over a broad field, the order of the Board now sought to be set aside and on the other hand enforced, goes no further than to direct the petitioner to cease and desist from dominating, interfering, or contributing to the support of the independent, and from interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, or to form, join, or assist labor organizations, or to bargain collectively through representatives of their own choosing and engage in concerted activities for the purpose of collective bargaining, or mutual aid and protection. Its affirmative provisions direct the petitioner to refrain from recognizing the independent in dealings concerning grievances, disputes, rates of pay, hours of employment, or other conditions of work, and direct the petitioner to post and maintain, for a period, the usual and appropriate notices. Whatever may have been the scope of the inquiry, the order is not broader than the complaint.

Under section 10 (a) of the National Labor Relations Act, no complaint may be issued by the Board until there has been a charge that some person has engaged, or is engaging, in an unfair labor practice affecting commerce. The filing of a charge is therefore jurisdictional. This means no more, however, than that the Board is without power to initiate a complaint upon its own motion, but must await the filing of a charge before its powers are exercised. The act contains no specification of what constitutes a proper charge, save that it shall state that the respondent has engaged or is engaging in any unfair labor practices affecting commerce. It would seem clear, therefore, that the provisions of article II, section 4, of the Board's rules and regulations, are for the information of the Board, to apprise it of the nature of the unfair labor practices alleged with sufficient particularity to enable it to determine that the charges are substantial and not frivolous, and so that it may enter intelligently upon the exercise of its exploratory powers. We must keep in mind that the statutory powers of the Board include not only the conduct of hearings and the entry of cease and desist orders, but preliminary investigatory authority necessary to a determination of the substantial character of the charge and to the formulation and issue of a complaint. There has been no lack of due process in failure of the charge to particularize specific acts as constituting unfair labor practices, when the complaint fairly apprises the respondent of acts alleged to do so. In considering the sufficiency of the complaint in that respect it is necessary to bear in mind that the nature of the proceeding is not punitive but preventive and in the interest of the general public. *N. L. R. B.* v. *Piqua Munising Wood Product Co.* (109 Fed. (2d) 552, 557 (C. C. A. 6)). It does not require the particularity of pleading in an indictment, declaration at law, or a bill in equity, for no security against double jeopardy or principle of res judicata commands the utmost of precision. Matters of evidence need not be recited in the complaint and a detailed knowledge of the Board's case in advance "is of slight value in a trial by hearings at intervals." *N. L. R. B.* v. *Remington-Rand, Inc.* (94 Fed. (2d), 862, 873 (C. C. A. 2)). We are of the opinion that the charge was sufficient to confer jurisdiction and the complaint adequate fairly to apprise the petitioner of the unfair labor practices therein charged and to sustain the Board's remedial order. There was jurisdiction of the controversy.

We are unable to perceive substantial merit in the petitioner's grievance at the union being permitted to participate in the proceeding through its counsel, or in its complaint that the conduct of the hearing was improperly delegated by the trial examiner to persons and agencies unknown to the petitioner, by the announced determination of the examiner to request a ruling upon debatable points from "Washington." Section 10 (b) of the act provides that persons other than the respondent may be allowed to intervene in the proceedings and to present testimony in the discretion of the member, agent, or agency conducting the hearing. The Board's rules and regulations (article II, § 19) provide for formal intervention, but article II, § 25, provides that any party shall have the right to appear at such hearing in person, by counsel, or otherwise, to call, examine, and cross-examine witnesses, and to introduce into the record documentary or other evidence. The report of the examiner is merely a recommendation subject to review by the Board, and it is the Board's findings and order that are here in issue, and not the examiner's recommendation. If the findings are supported by substantial evidence and sustain the order, it becomes our duty to direct enforcement. It is not contended that the Board, in making its findings, was in any way influenced, coerced, or intimidated by improper conduct of the union's counsel at the examination. We find nothing in *Amalgamated Utility Workers* v. *Consolidated Edison Co.*, supra, or in *National Licorice Co.* v. *N. L. R. B.* (60 S. Ct. 569) in conflict with the view herein expressed.

When the trial examiner indicated his intention to ask for instructions from Washington, the inference was, of course, inescapable that he desired instructions from the Board. His announced purpose was to save possible reversal upon questions which had never before been brought to his attention. We are unable to perceive in this announcement or in the practice anything prejudicial to the petitioner or in denial of due process.

We come finally to the contention most strongly urged as ground for setting aside the Board's order, that there was lack of substantial evidence to support findings of interference with or coercion of employees in the exercise of rights guaranteed in section 7 of the act, or to support findings that the petitioner dominated the independent contrary to the provisions of section 8 (2). It may be conceded at the outset, that many specific findings of fact to be culled from the discursive decision of the Board, are unsupported otherwise than by surmise, suspicion, or guess, as condemned by us in *N. L. R. B.* v. *Empire Furniture Corporation*, 107 Fed. (2d) 92. But with these eliminated there remain findings of coercion and domination based upon substantial evidence which support the decision and order of the Board. No purpose will be served by detailed review of the voluminous record made at the hearing. The investigation went far afield and much that is irrelevant and unimportant is incorporated, while unnecessary latitude was undoubtedly permitted the union attorney in his examination and cross-examination of witnesses. There remains, nevertheless, substantial evidence that Markle, an important supervisory employee, in charge of more than 20 line crews operating within the Jackson division comprising some 300 men, went far beyond the bounds of that strict neutrality asserted to be the petitioner's labor policy, in coercing employees to refrain from membership in the union, and in disciplining union organizers by transfers to undesirable work in the so-called pole yard. It is not necessary at this time to consider whether Markle's antiunion utterances transcended the limits of free speech, constitutionally guaranteed, for Markle's intimidation and disciplinary measures were not mere expressions of opinion. Likewise is it unnecessary to consider whether foremen in charge of single line crews of 1 to 10 men, are such supervisory employees that their antiunion acts may reasonably be attributable to the employer. Markle had much higher authority and was of much greater importance in the petitioner's organization than such line foremen, and so perhaps were others.

It may well be, as contended by the petitioner, that its officers took seemingly appropriate steps to suppress the antiunion activities of Markle, and that they endeavored, in the utmost of good faith, to be wholly impartial with respect to union organization and to redress grievances as soon as they were apprehended. The National Labor Relations Act, however, empowers the Board to protect employees in their right to organize and select representative bargaining agencies when such rights have been invaded, and we are unable to say, as a matter of law, that the Board should have relied upon the continued neutrality and impartiality of the petitioner for the protection of such rights, once there was substantial evidence that they had been overridden.

The contention that the several antiunion acts of Markle, and other supervisors amounting to intimidation, were not authorized and were beyond the scope of authority entrusted to these men must be rejected, not necessarily upon a strict application of the doctrine of respondeat superior as it has been applied in private controversies arising out of tort or contract. It has repeatedly been noted that the National Labor Relations Act contemplates the protection of the public rights which it creates and defines, and that its power to command affirmative action is remedial and not punitive. *National Licorice Co.* v. *N. L. R. B., supra; Consolidated Edison Co.* v. *N. L. R. B., supra.* As said by us in *N. L. R. B.* v. *Colton*, 105 Fed. (2d) 179: "The nature of regulatory statutes of the class here considered, and the scope and purpose of administrative orders made in exercise of powers conferred by such legislation, are to implement a public, social, or economic policy not primarily concerned with private rights, and through remedies not only unknown to the common law, but often in derogation of it." See also *Agwilines, Inc.* v. *N. L. R. B.*, 87 Fed. (2d) 146, 150 (C. C. A. 5).

It would seem to us, in view of the public rights involved and the remedial nature of the proceeding designed for their preservation and protection, that acts of coercion and intimidation by supervisory employees may be restrained and their resumption interdicted by appropriate action of the Board, even in the absence of clear demonstration of prior authorization or subsequent ratification, at least where the circumstances are such as to induce in subordinate employees a reasonable apprehension that the acts condemned reflect the policy of the employer. The right freely to organize without coercion or intimidation, is an empty one unless there is authority under the statutory scheme to safeguard it, and the necessity for doing so calls for more appropriate action by the employer than mere declarations of neutrality and impar-

tiality, even though in good faith proclaimed. Further than that we need not go for purposes of present decision.

The evidence in respect to alleged domination of the independent is not so clear as is that of attempted coercion by Markle of the union members by means of disciplinary transfers, and much that is sinister has been read into acts that might well have been perfectly innocent and conform to petitioner's reiterated policy of neutrality and impartiality. It must be considered, however, in relation to intimidation of union men definitely ascertained, and the failure of supervisory employees to make disciplinary transfers of officials of the independent similar to those made of officials and organizers of the union. So considered, there is room for reasonable inference that the petitioner was tolerant of the one organization in proportion as it was intolerant of the other. Whether the court would draw that inference from the established facts, is unimportant. It is sufficient if it be an inference permissible to the Board, and if so the finding must be sustained, whatever may be our own impression of the persuasiveness of the evidence.

In view of the broad authority given by the act to the National Labor Relations Board to take evidence and make findings of fact unfettered by the strict rules that govern judicial inquiry, and in view of the liberality accorded to its concept of substantial evidence and reasonable inference in the more recent cases, including *Consolidated Edison Co.* v. *N. L. R. B., supra; Natl. Licorice Co.* v. *N. L. R. B.,* supra; and *N. L. R. B.* v. *Bradford Dyeing Association, supra,* we are constrained to hold that there are findings of the Board supported by substantial evidence which sustain its order.

The petition to review is overruled and a decree may be entered for enforcement.

[United States of America. Before the National Labor Relations Board. In the Matter of Alabama Power Co. and International Brotherhood of Electrical Workers. Case No. C–1127.—Decided December 22, 1939]

Electric-utility industry—interference, restraint, and coercion: Antiunion statements by supervisors—Company-dominated unions: Interference with, domination and support of; independent union held successor of two employees associations; first employees association formed by company; second employees association formed with the company's assistance—Check-off: Held assistance to employees association—Remedy: Company ordered to disestablish second employees association, order not to affect accident, health, and hospitalization insurance program; to refrain from recognizing independent union; company ordered to return to employees dues checked off.

Mr. Samuel Lang and Mr. C. Paul Barker, for the Board.

Martin, Turner and McWhorter, by Mr. Hobart A. McWhorter and Mr. P. W. Turner, of Birmingham, Ala., for the respondent.

Mr. O. A. Walker, of Birmingham, Ala., and Mr. James Preston, of Washington, D. C., for the I. B. E. W.

Miss Carol Agger, of counsel to the Board.

DECISION AND ORDER

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by the International Brotherhood of Electrical Workers, herein called the I. B. E. W., the National Labor Relations Board, herein called the Board, by the regional director for the fifteenth region (New Orleans, La.), issued its complaint and notice of hearing dated September 12, 1938, against Alabama Power Co., Birmingham, Ala., herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of section 8 (1) and (2) and section 2 (6) and (7) of the National Labor Relations Act (49 Stat. 449), herein called the act. The complaint, as amended, contained certain allegations concerning the nature of the respondent's business and, in respect to unfair labor practices, alleged in substance that on or about July 30, 1934, the respondent originated a plan of employee representation, named the Alabama Power Employees' Representation Association, herein the representation association, and from July 30, 1934, up through August 1935, dominated and interfered with the administration of the representation association and contributed financial and other support thereto; that in May, June, July, or August 1935 the respondent assisted in the formation of a labor organization known as Alabama Power Co. Employees' Association, herein called the employees' association, and has at all times since dominated and interfered with its administration, and has contributed financial and other support thereto; that the respondent by pay-roll check-offs has collected dues in excess of $10,000, in behalf of the employees' association; that on or about July 23, 1938, the respondent assisted in the formation of a labor organization called the Independent Union of Alabama Power Employees, Inc., herein called the independent, and has at all times since that date dominated and interfered with its administration and has contributed financial and other support thereto; and that between July 5, 1935, and September 1, 1938, the respondent has discouraged membership of its employees in the I. B. E. W. in a number of ways specified in the complaint and by other acts and conduct. The complaint, and amendments thereto, and the notice of hearing were duly served upon the respondent and the I. B. E. W.

On September 27, 1938, the respondent filed a motion to dismiss the proceedings on the grounds that the complaint failed to set forth facts to show that the Board had jurisdiction to entertain the proceedings; that the facts set forth in the complaint were insufficient to show that the respondent had dominated or interfered with the three labor organizations, or that the respondent had interfered with, restrained, or coerced its employees; that the act is null and void because it deprives the respondent of its property without due process of law contrary to the provisions of the fifth amendment to the United States Constitution in that the act exempts from its operation power systems similar to the respondent's which are operated by political bodies; and that the charge upon which the complaint is based is deficient in that it does not state the address of the labor organization making the charge, the names of the individuals involved, and the time and place of occurrence.[1]

On September 27, 1937, the respondent filed an answer to the complaint as amended, and on November 28, 1938, filed a further answer to an amendment to the complaint which was made during the hearing. The respondent in its answers, without waiving its motion to dismiss, admitted that it assisted in the formation of the representation association and made financial contributions thereto from July 30, 1934, to July 5, 1935, but denied it dominated or interfered with the representation association; denied that it assisted in the formation of the employees' association or dominated or interfered with its administration or contributed support thereto, but stated that some meetings of the employees' association may have been held upon the respondent's property without its express approval or disapproval; stated that upon the basis of individual authorizations it deducted $7,115.40 from the salary due its employees and has paid the same to the employees' association; denied that it dominated, interfered with, or assisted in the formation or administration of the independent; and denied that it had interfered with, restrained, or coerced its employees in the exercise of the rights guaranteed by section 7 of the act and alleged that if any supervisory employees have participated in acts resulting in interference, restraint, or coercion of the employees, such participation was beyond the scope of their authority and in violation of instructions.

After several postponements, notices of which were served upon the parties, the hearing opened in Birmingham, Ala., on November 3, 1938, before D. Lacy McBryde, the trial examiner duly designated by the Board, and closed on December 7, 1938.

The Board and the respondent were represented by counsel and the I. B. E. W. by an international representative. At the beginning of the hearing the independent moved to intervene in the proceedings. This motion was denied by the trial examiner. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. At the beginning of the hearing, at the conclusion of the Board's case, and at the end of the hearing, the respondent renewed its previously filed motion to dismiss the proceedings. The trial examiner denied the motion on the first occasion and reserved ruling upon the second two occasions. The motion is hereby denied. The trial examiner also ruled upon a number of other motions and objections to the admission of evidence during the course of the hearing. The Board has reviewed all the rulings of the trial examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

On January 17, 1939, the trial examiner issued his intermediate report finding that the respondent had engaged in and was engaging in unfair-labor practices within the meaning of section 8 (1) and (2) and section 2 (6) and (7) of the act. He recommended that the respondent cease and desist from interfering with, restraining or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist the I. B. E. W. or any other labor organization, to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection; that the respondent cease and desist from dominating or interfering with the formation and administration of the representation association, the employees' association, the independent, or any other labor organization, and from contributing financial or other support thereto; and that the respondent withdraw all recognition from the independent as representative of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, and other conditions of employment and completely disestablish the independent as such representative.

On January 27, 1939, the respondent filed its exceptions to the intermediate report and on March 8, 1939, it filed a brief in support thereof in which it again renewed its motion to dismiss the complaint. On March 11, 1939, the I. B. E. W. filed a brief. Pursuant to notice, a hearing for the purpose of oral argument on the exceptions was held before the Board at Washington, D. C., on September 14, 1939, in which the respondent and the I. B. E. W. participated.

The Board has considered the exceptions to the intermediate report and, except insofar as they are consistent with the findings, conclusions, and order set forth below, finds them to be without merit.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

Alabama Power Co., the respondent, is an Alabama corporation having its principal place of business in Attalla, Ala. Ninety percent of its voting stock is owned by the Commonwealth & Southern Corporation, a Delaware corporation. It is engaged chiefly in the business of generating, selling, and distributing electrical energy for lighting, power, and other purposes.

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[1] This motion was renewed before the trial examiner at the beginning of the hearing and is ruled on below.

The respondent as the principal supplier of power in the State of Alabama

At the end of 1937, the respondent was supplying power either directly or indirectly to 672 communities in 64 of the 67 counties of the State of Alabama, including the cities of Mobile, Birmingham, Montgomery, Gadsden, and Anniston; there being a total of over 226,000 customers whose power requirements were being met by the respondent.[2] The respondent is the sole supplier of electrical energy to well over half the area of the State of Alabama, some portions being served by cooperatives, municipal systems, and about 8 other private utilities. Of these private utilities, the Birmingham Electric Co., which serves the city of Birmingham and vicinity, generated no power at all during the year 1937, and obtained its total supply from the respondent, which is its ordinary practice. The respondent also supplies power in substantial amounts to 4 other private utilities which operate in the State of Alabama.[3]

The cooperatives and municipal systems, which serve a comparatively small portion of the State, are supplied with electrical energy either by the respondent, by the Tennessee Valley Authority or by their own plants. The Tennessee Valley Authority supplies power to about 14 municipalities and to a few small towns. The record does not disclose how many of the municipal systems and cooperatives purchase power from the respondent.

In addition to this business the respondent buys and distributes a small amount of gas to consumers in the vicinity of Phenix City, Ala., operates a local bus system serving the city of Huntsville, Ala., and vicinity, and a street-railway system serving the city of Tuscaloosa, Ala., and vicinity.

The respondent's transmission and receipt of power across State lines

The respondent owns and operates six hydroelectric plants and seven steam plants in the State of Alabama at which all the respondent's electricity is generated. The respondent also owns and operates substations and transmission lines in the State of Alabama for the distribution of the electricity generated at the various plants. A number of these transmission and distribution lines are connected at the borders of the State of Alabama with the transmission and distribution lines of the Georgia Power Co., the Gulf Power Co., the Southern Tennessee Power Co., and the Mississippi Power Co.[4] The only break in these transmission lines at the State border is in ownership; the lines continue unbroken in a physical sense. The respondent, in selling to and exchanging power with these companies, delivers power to and receives power from them which is metered at the Alabama border.[5] During the year 1937, the respondent delivered approximately 20 percent of the total amount of energy produced by it to the above-named companies for use in States other than the State of Alabama. In its annual report to the Federal Power Commission for the year ended December 31, 1937, the respondent summarized its sale and interchange of power with other utility companies as follows:

Name of company	Kilowatt-hours, total deliveries, and receipts[1]	
	Received	Delivered
Mississippi Power Co	71,440	147,065,487
Gulf Power Co		44,717,122
Georgia Power Co	79,571,158	340,795,220
Tennessee Electric Power Co.[2]	2,332,000	98,977,907

[1] These figures include both sales and exchanges. The respondent's report breaks them down into the two elements, sales and exchanges of power, as well as reporting the total deliveries and receipts.

[2] 99 percent of the common stock of the Tennessee Electric Power Co. is owned by the Commonwealth & Southern Corporation. It is noted that the responded in its answer refers to deliveries to the Southern Tennessee Power Co., but does not report any deliveries to this company in its annual report. However, in the registration statement filed with the Securities and Exchange Commission, the Commonwealth & Southern Corporation explains that the Southern Tennessee Power Co., a wholly owned subsidiary of the Commonwealth & Southern Corporation, owns the transmission line over which is transmitted electrical energy purchased by the Tennessee Electric Power Co. from the respondent. It therefore appears that deliveries to the Southern Tennessee Power Co. were for the use of the Tennessee Electric Power Co. and are reported in the above table as deliveries to the latter.

[2] In the year 1937 the respondent sold 111,405,455 kilowatt-hours for residential and domestic use, 20,440,284 kilowatt-hours for rural use, 1,031,508,588 kilowatt-hours for commercial and industrial use, and 7,319,255 kilowatt-hours for street and highway lighting.

[3] Three of these companies, the Baldwin County Power Co., Tallassee Mills Utilities Co., and the Tuskegee Light & Power Co., generated no current by their own facilities during 1937, and purchased from the respondent, respectively, 639,000, 3,525,797, and 4,016,400 kilowatt-hours.

[4] The Commonwealth & Southern Corporation owns all the common stock of these companies. These companies are in turn interconnected with other companies with the result that the respondent is frequently a part of an interconnected system extending as far as Ohio.

[5] The respondent owns no transmission lines outside the State of Alabama.

The annual reports for the same year to the Federal Power Commission of these four companies show that a substantial portion of the total power used by them during the year 1937 was received from the respondent.[6]

The respondent urges in its brief that this delivery of power to other utility companies at the State line is incidental to its main business and that in all but two instances was a sale of surplus power upon the basis of "when, as, and if available" and that a cessation of power supply from the respondent would not affect the free flow of commerce in the States served by the four above companies since they have other sources of power within their respective States sufficient to supply their demands. While it may be that the respondent views such deliveries as "incidental" deliveries of surplus power, it is noted that approximately 20 percent of the total power generated by the respondent in 1937 was delivered to the companies providing services in other States. It further appears from the record that these deliveries are a continuing characteristic of the respondent's business.[7] Thus the respondent has delivered and received a substantial amount of energy, which moves across State lines, for a number of years, and the record does not disclose that this practice has ceased. It is immaterial that the respondent is not legally bound to make all these deliveries in the absence of a surplus.

The respondent, by its contention that the free flow of commerce would not be affected by a cessation of its operations because the four companies have other sources of power available, may intend to urge either or both of two contentions: (1) That the sale and interchange of power at the border does not result in a movement across State lines within the meaning of "commerce" as it is defined in the act since no material thing moves; or (2) that such cessation would not hamper the interstate activities of the customers of the four companies since their needs could be met by the companies in other ways. We think it clear that the delivery of power at the Alabama border into the connecting lines of the four utility companies does result in the movement of power across State lines and

[6] The report shows:

Company	Power generated kw-h.	Power purchased and interchanged (in gross) kw-h.
Gulf Power Co	48,604	52,372,872 (44,717,122 from the respondent).
Mississippi Power Co	23,990,511	151,654,287 (147,065,487 from the respondent).
Georgia Power Co	1,502,636,635	475,182,440 (340,795,220 from the respondent).
Tennessee Electric Power Co.	927,935,507	226,689,680 (98,877,907 from the respondent).

[7] The respondent's report to the Federal Power Commission for July 1938, entitled "Report of Movement of Electrical Energy Across State Lines," discloses receipts and deliveries as follows:

Name of company in adjoining State	Kilowatt-hours	
	Received	Delivered
Mississippi Power Co	5,780	14,175,438
Gulf Power Co		3,804,930
Georgia Power Co	6,299,228	29,616,486
Tennessee Electric Power Co	3,200	5,184,930
Grand total	6,308,208	52,781,784

The respondent summarized its deliveries and receipts of power for the years 1934, 1935, and 1936 as follows:

	1936		1935	
	Delivered kw-h.	Received kw-h.	Delivered kw-h.	Received kw-h.
Georgia Power Co	379,027,294	81,673,568	380,173,760	58,419,032
Tennessee Electric Power Co	46,752,602	59,400	8,426,400	50,200
Mississippi Power Co	135,149,714	6,228	110,251,273	8,000
Gulf Power Co	37,216,947		29,888,448	

	1934	
	Delivered kw-h.	Received kw-h.
Georgia Power Co	851,777,428	76,278,448
Tennessee Electric Power Co	14,183,200	632,400
Mississippi Power Co	92,785,203	97,772
Gulf Power Co	27,819,689	

that this is commerce within the meaning of the act, even though the precise nature of the movement cannot be fully explained.[8] The second possible contention is also without merit. It appears from the record that the four utility companies could not completely and immediately meet the demands of their customers. The Georgia Power Co. could take care of its "essential load" only by dropping one of its large secondary customers. If the cessation of the respondent's operations took place at a time when the load levels were high and the weather dry, the companies would require a number of hours to "bring in" their reserve steam plants. In any event the diversion of interstate commerce from the respondent to other suppliers would itself suffice to establish the relation of the respondent's operations to the flow of interstate commerce.

The respondent as supplier of power to instrumentalities of interstate commerce

The respondent supplies large amounts of electrical energy at a number of different points to the principal interstate railroads running in and out of Alabama carrying mail, passengers, and freight in and out of the State.[9] These railroads use electric power for a number of purposes, including the lighting of offices, stations, telegraphic offices, and interlocking towers, and the operation of signals which govern the movement of trains, the machinery in the shops, locomotive turntables, and to some extent for the operation of grain elevators and coal conveyors. The present normal operations of the railroads are dependent upon electric power. Certain make-shifts[10] could be employed to continue their operations should the power be cut off, although their employment would result in slowing the railroads' activities.

The respondent also supplies large quantities of electricity to the Southern Bell Telephone & Telegraph Co. at a number of points in the latter's system.[11] This company supplies telephone service to the whole State of Alabama except the extreme southeastern portion, and its system is connected with systems serving other States and foreign countries and with ships at sea by means of radio telephone. It also supplies teletypewriter services to the Associated Press, the United Press, sundry newspapers, radio stations,[12] and stockholders[13] and furnishes facilities to carry radio programs originating at New York City or Chicago from the central network stations to stations associated with the network.[14] The primary use to which the Southern Bell Telephone & Telegraph Co. puts electrical energy is the charging of storage batteries which supply the power to the telephone system. It also uses power for lights, for running various calculating machines, ringing machines, and for operating teletypewriter machines. If the electric power over the State were shut off, the Southern Bell Telephone & Telegraph Co. could operate its telephone service until the storage batteries ran down, a period of from 24 to 48 hours, and after that would have to obtain emergency equipment at those exchanges where it had no emergency generating systems. This would require considerable time and expense.

The respondent furnishes electric power to the three principal airports in Alabama, which are located at Birmingham,[15] Mobile, and Montgomery, and for the United States Army airport at Montgomery. These airports are used as stopping places for several airlines on interstate journeys where freight, mail, and passengers are picked up and discharged. At the airports, electricity is used to operate radio beams to allow instrument flying, boundary lights, beacons, and floodlights, all of which are essential for the safety of planes landing at night.

The respondent also supplies power to bus and trucking companies, United States post offices, and other United States Government offices and facilities including the United States Lighthouse Department and the Inland Waterways Corporation, the Western Union Co., Postal Telegraph Co., numerous newspapers, Railway Express Agency, Federal Barge Lines, a number of radio stations, railroads other than those above mentioned, warehouses at the State docks at Mobile, the cold-storage plant operated by the State Docks Commission, the State and municipal docks at Mobile, and to the coaling station for ships at Mobile.

The respondent as supplier of power to industries engaged in interstate commerce

Answers to questionnaires submitted to industrial concerns located in Alabama, and introduced pursuant to a stipulation between the Board and the respondent that such answers should be considered as though given by duly qualified witnesses,[16] indicate that at least 49 industrial concerns, which do a substantial interstate business, are wholly or almost wholly dependent upon power supplied by the respondent for their normal operation.[17]

The respondent contends that the contribution of these concerns to interstate commerce is "relatively small and lacks those elements of importance to commerce which would make applicable the principles laid down in the Consolidated Edison case."[18] Even if this were a material consideration,[19] there are, as we have pointed out, a large number of industrial concerns dependent upon the respondent for power to carry on their normal operations. Some of these concerns make a very large contribution to interstate commerce. We consider the respondent's contention to be without merit.

From the foregoing it is evident, and we find, that the respondent is the principal supplier of electrical energy in the State of Alabama; that it transmits and receives substantial quantities of power across State lines; that it supplies large amounts of power to instrumentalities of interstate commerce and to industries engaged in interstate commerce; that the normal operation of these instrumentalities and industries is dependent upon power supplied by it; and that a labor dispute between the respondent and its employees which resulted in the interruption of the respondent's operations would affect the flow of large amounts of electrical energy across State lines, and would seriously hamper, and in some cases paralyze, the operations of railroads, telephones, and other instrumentalities of interstate commerce and the operations of various industries engaged in interstate commerce.

II. THE ORGANIZATIONS INVOLVED

The International Brotherhood of Electrical Workers is a labor organization affiliated with the American Federation of Labor, admitting to membership all employees in the respondent's production and distribution departments and power plants except office employees, general foremen, supervisory employees ranking higher than general foremen, and superintendents of hydroelectric and steam plants.

Alabama Power Co. Employees' Representation Association was an unaffiliated labor organization, admitting to membership all employees of the respondent who had been employed by the respondent for at least 60 days, except employees identified with the management of the respondent, such as executive officers, general office department heads and assistants, division managers, managers of districts serving more than 1,000 customers, division superintendents and assistants, district superintendents, division sales supervisors, division auditors, district auditors, chief load dispatcher, plant superintendents and assistants, shop superintendents, and general foremen.

Alabama Power Employees' Association is an unaffiliated labor organization with a membership eligibility rule identical with that of the representation association, set forth above.

Independent Union of Alabama Power Employees, Inc., is an incorporated, unaffiliated labor organization, admitting to membership all the respondent's regular employees except those identified with the management, such as executive officers, general office department heads, division managers, managers of districts serving more than 1,000 customers, division superintendents, shop superintendents, and general foremen, and those employees holding

[8] E. W. Robinson, the respondent's vice president in charge of operations, testified that all the interconnected systems feed power into what is in effect one system when they are all generating power and that it is impossible to ascertain the source of a particular unit of energy. As a result of the connection of the respondent's lines with those of the other companies, the respondent's facilities would automatically supply more power to the other companies if some break-down should occur in their generating facilities.

[9] Southern Ry. Co.; Seaboard Airline Ry. Co.; Central of Georgia Ry. Co.; Atlanta, Birmingham & Coast Ry. Co.; L. & N. Ry. Co.; Tennessee, Alabama, & Georgia Ry. Co.; Alabama Great Southern Ry. Co.; St. Louis & San Francisco Ry. Co.; Mobile & Ohio R. R. Co.; Gulf, Mobile & Northern Ry. Co.; Illinois Central R. R.; Atlantic Coast Line Ry. Co.; and Western Ry. of Alabama.

[10] For example, the orders for train movements would have to be sent over commercial lines instead of the railroads' own telephone systems. The effect of the cessation of the power supply upon commercial telephone system is discussed below.

[11] The Southern Bell Telephone & Telegraph Co. buys power from municipal systems in the towns of Sheffield, Tuscumbia, Florence, Athens, Guntersville, Dothan, and Sylacauga.

[12] Radio stations use the teletypewriter to communicate with central network stations outside the State of Alabama.

[13] Stockbrokers use the teletypewriters to take and transmit quotations and orders, ordinarily to and from points outside the State of Alabama.

[14] One or more radio stations located in each of the cities of Birmingham, Montgomery, and Mobile, Ala., have connections with and broadcast the programs of national radio networks.

[15] The Birmingham Electric Co. supplies power to the Birmingham Airport. We have found above that the Birmingham Electric Co. ordinarily procures all the electricity distributed by it from the respondent.

[16] The respondent did not waive its objection to the materiality of such testimony by entering into the stipulation.

[17] Included among these plants are: Goodyear Tire & Rubber Co., of Alabama; Pepperell Manufacturing Co.; Nestles Milk Products, Inc.; Bemis Bros. Bag Co.; E. I. du Pont de Nemours & Co.; and many textile mills and coal mines. Other concerns, not so included, such as the Republic Steel Corporation and the Sloss-Sheffield Steel & Iron Co. ordinarily rely upon the respondent's power but have substitute or supplementary sources of power available to them.

[18] *Consolidated Edison Co. et al.* v. *National Labor Relations Board et al.* (305 U. S. 197).

[19] "* * * we can perceive no basis for inferring any intention of Congress to make the operation of the act depend on any particular volume of commerce affected more than that to which courts would apply the maxim de minimus." *National Labor Relations Board* v. *Fainblatt et al.* (306 U. S. 601).

equivalent or higher titles or positions with authority to hire and discharge.

III. THE UNFAIR LABOR PRACTICES

In our consideration of the unfair labor practices we are met at the outset by the respondent's contention that the Board and the I. B. E. W. are estopped from pressing the charges here involved because two elections have been held at the instance of the I. B. E. W. with knowledge of the respondent's activities with respect to the representation association and the employees' association. The first of these elections was held in 1934 under the auspices of the National Labor Board [20] between the I. B. E. W. and the representation association. Since this election was held pursuant to a law other than that under which these charges are brought, the I. B. E. W. is not estopped from pressing charges even if it then had knowledge of the respondent's activities with respect to the representation association. This Board had nothing to do with the 1934 election and cannot be bound by the acts of another agency which was acting pursuant to the terms of another law.

The second election was held under the auspicies of this Board pursuant to the consent of the I. B. E. W. and the respondent in November and December 1937. The Employees' Association was not on the ballot and took no formal part in the election. The I. B. E. W. was defeated by about 84 votes in this election. While in the interests of the effective administration of the act, the Board may, in its discretion, refuse to issue an order when its agents have previously represented to an employer that if he consents to an election pending charges will not be pressed,[21] the respondent here advances no evidence that any such representations were made. Even where no such representations are made, the Board has refused to consider events occurring prior to a consent election where the union later alleged to be dominated has appeared on the ballot and where the employer, subsequent to the time it consented to the election, has not engaged in unfair labor practices which show a continuity with conduct and attitude prior to such consent.[22] Here the Employees' Association did not appear on the ballot; moreover, as we find below, the respondent continued its unfair labor practices after the election of November 1937 and these practices were a continuation of the unfair labor practices indulged in prior to that time. The Board will therefore, in its discretion, consider evidence relating to unfair labor practices engaged in prior to the election of November 1937. We now consider such evidence.

A. Alabama Power Company Employees' Representation Association

1. The Organization of the Representation Association

Prior to spring 1934 there was no labor organization among the respondent's employees. In about March of that year the I. B. E. W. initiated an organizing campaign, carried on largely by a group of employees who had become interested in the I. B. E. W. The respondent's attitude toward labor organization was by that time already known to at least one of the individuals, J. C. McIntosh, who was active in starting the I. B. E. W. organization. Around the first of the year Superintendent Cox, of Jordan Dam,[23] in handing to McIntosh a letter sent to McIntosh bearing the return address of William Green, of the American Federation of Labor, said, "McIntosh, you realize that the company is opposed to organized labor." McIntosh replied that he was aware of the respondent's attitude, and Cox warned him, "Now, I don't know what is in that letter, but if I am called on for any information as regards organization at this plant, I will have to tell them about this letter." [24]

Late in March or early in April 1934, Superintendent of Production Neeson told McIntosh that the I. B. E. W. could go ahead and complete its organization if it liked but that if it did so there would not be enough men left at Jordan Dam to hold a meeting.[25] A few months later, in June 1934, McIntosh was transferred from his position as clerk at Jordan Dam to a job painting houses at the Gorgas steam plant. Upon his arrival at Gorgas, McIntosh was informed by Superintendent Lineberry that he knew McIntosh was an I. B. E. W. member, that there was no need for labor organization at Gorgas, that the men there would not be interested in the I B. E. W., and that the I. B. E. W. would not be successful on the respondent's properties. Lineberry then introduced McIntosh to Foreman Packer, under whom McIntosh was to work, and warned Packer that McIntosh was "full of I. B. E. W. ideas." [26] At about the same time Superintendent Cox asked R. R. Wade to go to work early one day. When Wade arrived Cox talked to him about the I. B. E. W. and asked him not to join.

During the spring of 1934 James Barry, the respondent's vice president and general manager, was advised by the various division managers [27] that I. B. E. W. organizational activity was going on in certain parts of the respondent's system. On about June 1, 1934, Barry undertook to draft a plan of employee representation with the aid of Vice President Robinson, Superintendent Neeson, and McWhorter, the respondent's general legal adviser. Barry testified that he undertook the preparation of the plan because he had been advised by a number of supervisors that the employees desired a plan of representation for the purposes of collective bargaining,[28] and that the National Industrial Recovery Act had stimulated the employees' interest in collective bargaining. The plan, as drawn by Barry, set up the representation association. The organizational scheme of the representation association may be generally described as an employees' representation plan. Under the plan local departmental councils, such as the accounting department council for the northern division, were to be elected. One councilman was to be elected to these department councils for each 20 members in that department. The councilmen elected as chairmen of each department council made up the division councils.[29] The chairmen of the various division councils made up the general council. The plan provided that each councilman be an employee of 1 year's standing and that he forfeited his office upon his transfer or upon his leaving the respondent's employ. The departmental councils were empowered to negotiate with the respondent concerning matters relating to employees of their respective departments; the division councils were similarly authorized with respect to the employees in the several divisions; and the general council took care of matters of interest beyond the scope of the departmental and division councils.

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[20] Set up in connection with sec. 7 (a) of the National Industrial Recovery Act, 48 Stat. 195. See Public Res. No. 44, 73d Cong., and Executive order of June 29, 1934, pursuant thereto.

[21] See *Matter of Godchaux Sugars, Inc.*, and *Sugar Mill Workers' Union, Locals No. 21177 and No. 2188*, 12 N. L. R. B., No. 67; *Matter of Shenandoah-Dives Mining Co.* and *International Union of Mine, Mill & Smelter Workers, Local No. 26*, 11 N. L. R. B. 885.

[22] See *Matter of Hope Webbing Company* and *Textile Workers Organizing Committee of the C. I. O., Local No. 14*, 14 N. L. R. B., No. 5.

[23] The superintendents of the respondent's various plants are in charge of the plants and personnel generally. They are under the supervision of Production Superintendent Neeson and are themselves superior to the plant foremen, who are sometimes referred to as assistant superintendents. These superintendents, together with division superintendents, are clearly important supervisory officials. Neeson is directly subordinate to Vice President Robinson, in charge of operations.

[24] Cox did not testify. The respondent objected to the admission of this testimony because it was not covered by the complaint and because the incident occurred prior to the effective date of the act. As to the first objection, it is valid only if the respondent was not given an opportunity to rebut the testimony. In this case, however, at the close of the Board's case, the respondent made a motion that the hearing be adjourned for several days in order that the respondent might have time to prepare its defense, and the motion was granted. The respondent had an opportunity to meet the evidence and was given a fair hearing. The objection as to the occurrence of the incident prior to the effective date of the act is without merit since such matters are necessary to an understanding of the background and circumstances surrounding the formation of a labor organization which continued after the effective date of the act and which we find below was the predecessor of another organization which existed for a considerable time after the effective date of the act. (See *N. L. R. B.* v. *Pennsylvania Greyhound Lines, Inc., et al.*, 303 U. S. 261.) During the hearing objections were made to other testimony upon the same grounds. We do not feel it necessary to point out and deal with each of these objections, for in all cases where such testimony is relied upon the above observations apply.

[25] Neeson testified that he did not make such a statement. However, in view of Cox's and other supervisory officials' statements of the respondent's attitude toward labor organizations, we are satisfied that McIntosh's testimony, summarized above, is substantially correct.

[26] Lineberry did not testify.

[27] The respondent, for purposes of administration, has divided its operations into 6 geographical divisions, which are under the direction of the division managers for certain purposes. It also divides its system into functional departments without reference to geographical location, such as the production department, the distribution department, and the like. Neeson, as already noted, is superintendent of the production department.

[28] In about May 1934 Foreman O. L. Heath told Division Manager Hunter that he had been asked to join the I. B. E. W., that he was not particularly interested but that he thought the employees needed some sort of organization, and asked Hunter if the respondent intended to make any response to the employees' demand for organization. Hunter replied that he would take it up with "Birmingham" (the respondent's general offices) and let Heath know. Hunter never advised Heath as to what he had done. At about the same time, Herbert Ross, an employee, was given some I. B. E. W. literature by one Williams and a few days later Superintendents Neeson and Dawkins approached Ross and inquired whether Williams had seen him and what Williams had had to say.

[29] The division councils consisted of the northern division, the eastern division, western division, southern division, southeast division, and Mobile division whch are geographical divisions of the respondent's system. The local departmental councils under these divisions are generally the accounting, distribution, local operations, and service, sales, and transmission departmental councils. In addition to these divisions the plan sets up the general office division with six departmental councils under it, and the production division council. Under the production division council are seven departmental councils, each representing one or more hydroelectric or steam-generating plants.

By the terms of the Barry plan, the reasonable and necessary expenses of the representation association were to be paid by the respondent and no dues or assessments were to be levied until a majority of the employees had so voted at a special election. The plan made no provision for regular general membership meetings, although such meetings could be called locally by the departmental councils, divisionally by the division councils, and generally by the general council. In addition, divisional meetings or general membership (by divisions) meetings could be called by membership petitions bearing the signatures of 20 percent of all members in the division and in the representation association, respectively.

The plan also makes provision for the arbitration of disputes with the consent of the general council and the management. The plan was to take effect upon the vote of a majority of the eligible employees.

About July 30, 1934, Barry had packages of mimeographed copies of the plan, together with a letter from himself to the employees,[30] sent in bundles to the various divisions and district offices to be distributed to the employees. The plan was presented to the employees by the various superintendents and supervisors. At the Gorgas steam plant, Superintendent Lineberry presented the plan to the employees and informed them that he did not think the men needed "any form of damn organization." He explained that he had attended a superintendents' meeting where Barry had discussed the plan, and had told Barry that if the respondent would restore the Christmas bonus and give the employees a 10-percent wage increase, he, Lineberry, thought the agitation among the employees would stop. He further stated that Barry had said that the respondent would have to give the employees some form of organization.

On August 9, 1934, an election was held in which the employees were to indicate whether they wanted to be represented as proposed by the Barry plan. This took place on the respondent's property during working hours. The majority of all the employees voted to accept the Barry plan. At the magazine plant and in the production department[31] generally, however, the vote resulted in the defeat of the plan. Superintendent Ames of the magazine plant then suggested to U. L. Gibson, an employee, that the plan should be given a trial to see whether the men could not obtain the results they desired through the plan and that Gibson present the matter to the other employees of the plant in that way. The plan was then resubmitted to the men and on the second vote they voted in favor of the plan. There was no resubmission of the plan to the production department generally.

Shortly after the election Foreman Pledger of the Gorgas plant informed the employees that Superintendent Lineberry wanted to see them in front of the office. When the men had assembled, Lineberry announced the results of the election and said that the result was not as favorable as he thought it should be; that he thought that Superintendent Neeson did not deserve the slap he had received in the vote; and that if the employees could not see the matter the way the respondent saw it, he would work with them for 6 months or perhaps a year or two, but if they could not come around to the respondent's view they could seek work elsewhere.[32] Thereafter most of the men present at the meeting joined the representation association.

Membership in the representation association was evidenced by the employees' signatures to a document stating that those signing chose to become members. In at least two plants the superintendent took the document to employees who had not signed and inquired if they wished to join.[33] One of these superintendents, Dawkins, told an employee that it would look bad for his plant if the men did not join. One employee, Heath, who was at that time a foreman in the distribution department, did not join the representation association. He was called into Superintendent Hulbert's office and was questioned by Hulbert about his attitude toward the representation association. Heath said that he did not care to join. According to Heath, Hulbert then spoke of the I. B. E. W. and said, "We didn't need a bunch of northerners to come down here and tell us southern people how to run our business, and that we didn't need that organization, and asked me which side I was on, the respondent's side" or the side of the I. B. E. W.; and warned Heath that if he did not drop out of the I. B. E. W. and join the representation association he would jeopardize his job with the respondent.[34]

Superintendent Hollis of Mitchell Dam also continued to make the respondent's attitude toward the I. B. E. W. clear to the employees during the period when the representation association was being organized. On one occasion, when Hollis was away, McRae and seven other employees at Mitchell Dam joined the I. B. E. W. On Hollis' return he was told by the plant foreman that as soon as he had left 8 or 10 men had joined the I. B. E. W. Hollis called these men into his office one by one. According to McRae, Hollis told him at his interview that the men had made a "terrible mistake"; that they would not have joined the I. B. E. W. if Hollis had been there; and that the respondent was like a sturdy boat which had carried them through the depression, and the men had jumped off into a frail craft, the I. B. E. W., and it would probably sink with them.[35]

Departmental councilmen were elected in August 1934. The chairmen of the departmental councils which made up the division councils and the chairmen of the division councils who made up the general council were elected shortly thereafter, and the organization of the representation association was complete.

While it is clear that the foregoing events, and other events recited below, taking place prior to July 5, 1935, did not themselves constitute violations of the act, they reveal the respondent's course of conduct over a period of years, the effects of which continued well beyond the effective date of the act. As a result, such events supply the necessary background against which subsequent events may be more accurately evaluated.

2. The Representation Association From September 1934 to August 20, 1935, and the Organization of the Employees' Association

The first production division council meeting was held in the respondent's general offices in Birmingham on September 21, 1934. One of the councilmen who had arrived early met Superintendent of Production Neeson, who told him that the respondent would not recognize the I. B. E. W. as a bargaining agency but would recognize the representation association.[36]

Starting on September 29, 1934, the National Labor Board, at the request of the I. B. E. W., held an election among the employees in the various electrical departments to determine whether the employees desired the representation association or the I. B. E. W. to represent them for purposes of collective bargaining. This election lasted for a number of days. In connection with and prior to this election, the respondent paid the expenses of representation association councilmen who went to various plants and urged the employees to give the plan a chance to operate for 90 days and see

[30] The letter advised the employees that an election would be held on August 9, 1934, on 2 propositions:

(a) The question of whether the employees desire to organize for the purpose of having representation for collective bargaining.

(b) The adoption of the tentative plan transmitted herewith as a basis for initial operation, in the event organization is desired by a majority of the employees.

The letter also stated that prior to August 9, 1934, the employees in each department should select three tellers to conduct the election.

[31] The production department operates the power-generating plants and some of the substations.

[32] Gurley Hill testified that he knew of four men who had voted against the plan. Of these, three are still working for the respondent. There is no evidence that the one no longer working was discharged because of his vote on the plan. Two of the four became members of the representation association. While it appears that the threat to discharge employees who did not accept the respondent's views on the plan was not carried out, the employees did not know at the time that the threat was made that it would not be.

[33] Upon objection being made to this procedure at one plant by one of the tellers, the document was destroyed and another one placed on the desk at the plant for the employees to sign.

[34] Hulbert did not testify.

[35] Hollis' version of the conversation was that he had said that he was greatly surprised that any employee who worked for him had thought he had to wait until he got out of the plant to join any organization and that was what he had informed the men; and that he had spoken of the respondent as a sturdy boat carrying the men through the depression but he had not said anything about the men jumping off into a frail craft.

We do not see why Hollis found it necessary to discuss the respondent's treatment of the employees during the depression if he did not mean to imply that the men had committed a disloyal act in joining the I. B. E. W. One, Parrish, who was apparently of the same group, testified that Hollis had told him he was making a mistake in joining the I. B. E. W. and that he, Hollis, would not do so if he were Parrish. We find that the statement of the incident set forth above is substantially correct.

[36] Neeson, although he testified, did not deny making this statement. Neeson's attitude toward the I. B. E. W. is illustrated by the following incident. Sometime prior to July 5, 1935, Neeson had a conversation with Powell, an employee, concerning the I. B. E. W. According to Powell, Neeson inquired whether Powell was one of the group of men who had sent in I. B. E. W. applications. Powell said he was. Neeson then told Powell that the respondent had Powell's interest at heart and that he thought Powell was making a mistake and was building a fence between himself and the respondent. Neeson advised him that if he had not already paid dues to the I. B. E. W. not to do so.

Neeson testified that while he had probably talked to Powell about the advantages and disadvantages of the I. B. E. W., he had never questioned Powell's right to join it. Neeson denied that he had asked Powell whether he had sent in an I. B. E. W. application but admitted that he had probably told Powell that he was making a mistake, that the respondent had Powell's interest at heart. Neeson also denied that he had advised Powell not to pay I. B. E. W. dues but stated that he may have asked Powell what dues he was paying. While the two versions vary in their details, it is clear that Neeson at least advised Powell that he was making a mistake in joining the I. B. E. W. since the respondent had Powell's interest at heart, and we so find.

Neeson's attitude toward the I. B. E. W. is further illustrated by his statement to McIntosh in May 1935, that McIntosh could not expect a better job with the respondent so long as he was an I. B. E. W. member.

what it could do for them. The chairman of the general council also traveled about the system electioneering at the respondent's expense. Just prior to the election Superintendent Lineberry suggested to G. W. Kindley, an employee, that he use his influence to get the men to "vote right" and said that some of the men were going off at a tangent. Lineberry also stated that if the men chose the I. B E. W., it would not be a representative of their own choosing, that representation would be out of the employees' hands. The representation association won the election.

Also in September of 1934, Herbert Ross, Jr., asked Superintendent Dawkins for the use of the clubhouse at Martin Dam for an I. B. E. W. meeting. The clubhouse is located upon the respondent's property and is available to the employees for various social uses. Dawkins refused to allow the I. B. E. W. to use the clubhouse. He testified at the hearing that he did not allow it to be used since the respondent's employees from other dams were to attend; that he viewed these other employees as "outsiders" and the clubhouse was for the use of Martin Dam employees only. Dawkins also testified that either in 1934 or 1935 he himself had held a Rotary Club meeting at the clubhouse which was attended by some persons who were not employees of the respondent at all. We are satisfied that the true reason for Dawkins' refusal of the clubhouse to the I. B. E. W. was not that employees from other dams were to attend the meeting but that Dawkins desired to place an obstacle in the way of I. B. E. W. organizational efforts. At that time and up to July 5, 1935, the representation association held meetings in the first-aid room at Martin Dam. Thereafter, the representation association used the clubhouse for its meetings. All meetings of the various representation association councils were held during working hours in the plants and the respondent met all the expenses of the elections and other business of the representation association incurred prior to July 5, 1935.

In the latter part of October 1934 the respondent entered into negotiations with the representation association with respect to a contract governing wages, hours, and working conditions. A separate agreement governing the production department was also negotiated. The record is not entirely clear as to how the negotiations were carried on but it appears that the production division council ultimately accepted a proposal made by Superintendent Neeson.

In addition to the negotiation of the wage agreement the representation association carried on individual grievance work. Ross was chairman of the production division council from August 1934 until April 1935 and was active in the grievance work. He was also a member of the I. B. E. W. until shortly after the I. B. E. W. lost the election in September and October 1934. On one occasion in November or December 1934, Ross' superior, Dawkins, returned from a meeting of superintendents and told Ross that the superintendents in the production department were "cussing out" Ross because of these activities. Dawkins testified, and we find, that he told Ross that the superintendents at the meeting had accused Ross of going around and "drumming up" grievances; that Dawkins thought it would be more satisfactory if Ross waited until grievances came to him instead of going around and asking the men if they had any grievances; that the superintendents felt that Ross was not handling grievances in the manner provided by the plan; and that for Ross' own good it would be well to handle grievances as the plan provided.

The record discloses nothing material concerning the activities of the representation association from this time until May 1935. On May 17, 1935, the general council appointed a committee to rewrite the representation association's constitution, the Barry plan, in order to make it conform to the act, which was then pending before the Congress. The committee prepared a draft of an amended plan. One member of the committee, Howard Williams, submitted the draft to McWhorter, the respondent's attorney, to get his advice upon the wording of one section. McWhorter made a few changes in the wording. The proposed amended plan was then mimeographed upon paper provided by the respondent and with the respondent's machines. At the same time the committee prepared and mimeographed, with the respondent's machinery and stationery, a letter submitting the amended plan to the members and a ballot form for use in the vote upon the amendment.[37] Williams, a committee member, then spent about a week in touring the system and getting the approval of various division councilmen to the proposed amendment. The petition of 20 percent of the members for an amendment is required by the Barry plan. The respondent paid Williams for the time spent in this distribution and paid the expenses incidental thereo.[38]

On July 9, 1935, the general council met in the Alabama Power Building, Birmingham, voted to hold an election upon the amendment, and approved the explanatory letter and ballot already prepared by the committee. The minutes of the meeting also disclose that McWhorter, the respondent's attorney, was called in to the meeting to interpret some of the provisions of the act; that the secretary of the general council was then instructed to write a letter to Barry advising him that no expenses incurred after the effective date of the act would be certified to the respondent for payment; and that a proposal[39] for a general wage increase was taken up with Barry, who promised that the general council would have an answer on the proposal shortly.

Copies of the proposed amended plan were then sent out to the division councilmen for distribution to members of the representative association, with the letter advising that an election would be held upon it on August 20, 1935. Some meetings were also held to explain the amended plan to the employees. On July 14 or 15, 1935, Councilman McRae went to Georgas to hold such a meeting. Either Northcutt or Kindley, employees active in the representation association, told Superintendent Lineberry of the expected visit and Lineberry gave the representation association his permission to have the meeting held during working hours. McRae addressed the men and told them it was necessary to amend the Barry plan because of the passage of the act. At about that time Lineberry told Northcutt that if all the employees would get behind the representation association it could be made to work without having any outside organization.[40]

The election on the amended plan was held on August 20, 1935. Ballot boxes were placed around the respondent's plants and at least some employees cast their votes during their working hours. The constitution, as altered by the amendment, was adopted.

The amendment made only two substantial changes in the representation association; namely, in changing the name of the organization to Alabama Power Employees' Association and in providing that if payment of expenses by the respondent should constitute a violation of any valid provision of law, the general council should then have authority to assess membership dues at the rate of 15 cents a month. The amended plan provided that the incumbent officers and councilmen of the representation association should remain in office until the next annual election. Other changes of a minor character, which in no way altered the general organizational scheme of the representation association, were also made but many of the provisions of the two constitutions are identical.

On August 20, 1935, with the acceptance of the amended constitution, the employees' association came into being and the representation association was considered dissolved.

3. The Employees' Association From August 20, 1935, to July 23, 1938

Officers and councilmen of the representation association continued to act as such for the employees' association.[41] They continued to use the representation association books and records and carried to completion the negotiation of an agreement with the respondent, originally initiated by the representation association. The employees association's general council and production division council continued to meet in the respondent's building in Birmingham until May 1937. Many of the departmental councils continued to meet and hold elections upon the respondent's property, in some instances in superintendents' offices during working hours, as late as April 1938. The employees' association officials likewise continued to use the respondent's stationery and had minutes of some of the council meetings typed by the respondent's stenographers.

The expenses of the election of August 20, 1935, conducted by the representation association were ultimately paid by the employees' association out of dues collected by it. Shortly after the election, the employees' association requested the respondent to deduct dues from the salaries of the employees. The respondent agreed to institute a "check-off" system but informed the employees' association that deductions could be made only upon the basis of individual authorizations signed by the employees. The employees' association then had membership application cards printed which had attached

[37] Howard Williams, a member of the committee, testified that the committee mimeographed these documents in June 1935, prior to their approval by the general council, because it desired to have the respondent meet the expenses involved. He could not recall that the committee had been advised that the respondent would not or could not pay for this work at a later date. Lamar Aldridge, the respondent's treasurer, testified that prior to the passage of the act, he and Vice President Barry decided that if the act passed, the respondent could not continue to pay the expenses of the representation association. Barry testified that this decision was not communicated to the representation association.

[38] The trip was completed prior to the effective date of the act.

[39] The proposal was in the form of a letter to the respondent's president and vice president which set forth arguments in favor of a wage increase and included the recommendation that the respondent:

"Seriously consider our statement that this council and representation association is threatened with destruction or replacement by outside labor organizations unless some outstanding and significant move is sponsored and encouraged by this association and our management."

Barry's reply was delivered to the wage committee, which was appointed by the representation association in July or August 1935. Barry explained the reasons why the respondent could not give a general wage increase at that time and with respect to the above-quoted recommendation, pointed out that it was unsound; that if the employees did not believe in the representation association they could change it; and that the respondent hoped that the fears of the representation association were groundless and that the organization would be preserved.

[40] About 2 weeks later Lineberry told Northcutt that the I. B. E. W. affected the respondent as would the shaking of a red rag in a bull's face and that the representation association affected the I. B. E. W. in the same way.

[41] New officers and councilmen were elected in April 1936. Robert Klein was elected as chairman of the general council shortly thereafter and continued to hold that position until May 1938. Klein was a cashier in the general office in Birmingham and handled the respondent's general cashbook. He had authority to recommend the hiring and discharging of employees in his department.

to them authorizations for the deduction of employees' association dues from the salary due to the signer. An applicant ordinarily signed both cards.[42] Distributions of these cards by the employee representatives among the employees started about August 31, 1935.[43] Solicitation in behalf of the employees' association was undertaken by at least one supervisor, F. J. Springer, foreman of the substation maintenance crew, who was at that time the chairman of his division council. Springer handed out the cards to the men in his crew and others and asked them if they wished to sign. The men signed the cards and returned them to Springer who completed filling them in. Springer testified that he filled in 40 or 50 application cards in this manner.

As already indicated, the employees' association continued to function in much the same manner as had the representation association. It negotiated contracts with the respondent and undertook the settlement of individual grievances. During the active existence [44] of the employees' association the respondent's officials made clear to the employees that they would do well to refrain from I. B. E. W. activity, and to join the employees' association.[45] During the year 1936, Superintendent Neeson inquired of McDaniels, an employee, whether he belonged to the I. B. E. W. When McDaniels replied in the affirmative, Neeson advised him that it would be best not to belong; that the respondent would do more for him if he were not an I. B. E. W. member; and that the payment of I. B. E. W. dues was just a waste of money.[46]

In late June 1936, Superintendent Lineberry asked F. F. Hyche, an employee, whether he had joined the I. B. E. W. Hyche said that he had applied for membership. Lineberry told Hyche that he had been coming to Lineberry for advice on other matters but if the I. B. E. W. went on strike, he, Lineberry, would be through with Hyche; that Hyche should join the Employees' Association and build himself up with the respondent. When Hyche replied that he had not joined the I. B. E. W. because he was against the respondent, Lineberry explained that Hyche was either for or against the respondent since he could not serve two masters. During the summer of 1936, Superintendent Hall inquired from Mussleman, an employee, what benefit he expected to derive from the I. B. E. W. and expressed the view that the only persons benefited by that organization were its international officers, that it was all hokum about the rank and file receiving any benefit. After advising Mussleman that he could do his fellow workers more good by working hard in the employees' association, Hall cautioned him that he need not expect any good jobs with the respondent if he stayed in the I. B. E. W. Mussleman replied that he did not believe that Hall or his assistant would discriminate. Hall answered, "Yes, but unfortunately, we are not the Alabama Power Co."

Sometime during the latter part of 1936, or in 1937,[47] Superintendent Lineberry inquired of John Walker, an employee, "John, have you heard about our union." Walker said he had not. Lineberry said, "Well, we got a union, John, you can join it if you want to. It will cost you 15 cents a month." The amount of dues mentioned clearly indicates that it was the employees' association to which Lineberry referred.

In February 1937 Superintendent Dawkins said to Romine, an employee, that he understood that Romine had withdrawn from the employees' association, and that he was sorry Romine had done so. Dawkins advised Romine that so far as he, Dawkins, was concerned, Romine could belong to anything he wanted to but that Dawkins felt that the respondent would rather that Romine did not belong to the I. B. E. W.[48] On May 6, 1937, Fred Mayfield, an I. B. E. W. member, and two friends paid a visit to Lay Dam, where S. R. Powers is the superintendent. On his way out of the plant Mayfield met Powers, who said to him, "Mayfield, I would rather you fellows wouldn't come up here trying to organize my men."

Shortly prior to an election held by the Board in November and December 1937, discussed below, McRae, accompanied by W. S. Parrish, another employee, went to visit the rotary substation at Montgomery, where Pete Chambliss was foreman. At that time Chambliss informed McRae, in the presence of several employees of the substation, that he, Chambliss, was doing everything in his power to fight the I. B. E. W.; that the I. B. E. W. was misrepresenting the facts when it said that the management was not antagonistic to the I. B. E. W.; and that the respondent's vice president, Coleman, had said at a banquet that the respondent did not need the I. B. E. W., since the employees' association was filling the bill.[49]

The respondent's attitude toward the I. B. E. W., and its freedom in allowing the employees to be aware of that attitude, is further demonstrated by a letter sent on September 13, 1937, to Superintendent Dawkins by District Manager Kittredge. The letter reads as follows:

"Mike Neeson [superintendent of production] told me the other day that you and Winn [an employee] thought I was responsible for getting Winn sent back to Martin Dam, and he said he told you that I had nothing to do with it which was true.

"I think this may have started from something I said to Mr. Thigpen [an employee] one day when we were discussing union activities, before I found out that Thigpen was active in it (the I. B. E. W.). I was talking to him about Winn keeping after our boys trying to induce them to join [the I. B. E. W.] and I remarked to him that it might be a good thing to send Winn back to Martin Dam, but that is as far as the thing went."

As stated above, pursuant to a request made by the I. B. E. W., the Board, with the respondent's consent, on November 29, 30, and December 1, 1937, held an election among the employees of the respondent to determine whether or not they desired to be represented by the I. B. E. W.[50] The I. B. E. W. was defeated in the election by 84 votes out of the 1,186 votes counted.

Shortly after the election, Superintendent Winston informed McIntosh that he personally did not care to what organization the men belonged but that he thought there was no question that the respondent would prefer to deal with the employees' association "as they had it" rather than with the I. B. E. W. A further illustration of the respondent's continued assistance to and interference with the employees' association is the conversation between R. C. Gaunt and Superintendent Hall. Gaunt had been active in the employees' association but resigned on February 1, 1938. He had joined the I. B. E. W. some months earlier. At about the time of his resignation from the association, Hall asked Gaunt how he expected to get anywhere riding two horses. He also stated that Gaunt had some employees' association records which he had been requested to return and accused Gaunt of having turned them over to the I. B. E. W. instead. Gaunt, as a matter of fact, had not turned the records over to the I. B. E. W.

On June 29, 1938, the respondent replied to the employees' association's request for a meeting to negotiate a new contract by informing it that charges had been filed by the I. B. E. W. alleging that the employees' association was dominated and supported by the respondent, and that in view of the charges the respondent

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[42] Persons on commission rather than a straight salary did not sign the authorizations.

[43] During 1936, Employee Representative Maxwell asked James Farrar to join and, when he refused, Maxwell asked why and wrote down the answer which Farrar gave. Farrar inquired why he did that and Maxwell replied that he wanted to turn over the answers to Superintendent Neeson when he returned from Mobile and that he had also written down the replies of other employees. Subsequently, Farrar asked Maxwell whether he had given the information to Neeson. Maxwell said that he had and that Neeson had read the material and had requested that the employees' replies be turned over to him.

Neither Neeson nor other supervisors spoke to Farrar about his failure to join the employees' association or his reasons therefor.

Neeson denied that he had requested Maxwell to get the information but did not deny that he had received such information from Maxwell. We find that Maxwell gave Neeson the information.

[44] There is a conflict in the testimony as to whether the employees' association is still in existence. This matter is discussed below.

[45] There is evidence that these officials were instructed not to interfere with labor organization and not support any union. The general instructions, unless they were followed, are immaterial. The activities of supervisors are coercive irrespective of whether they are carried on pursuant to, or in violation of, instructions. The respondent is not absolved from its responsibility for the acts of its agents merely because they were contrary to instructions.

[46] Neeson denied that he had ever discussed the I. B. E. W. with McDaniels in the year 1936, and testified that he never discussed the I. B. E. W. with any of the men after the effective date of the act. The views expressed are those Neeson is said by other employees to have expressed to them and we find no reason for questioning McDaniels' recollection of the date of the conversation. We find that the above statement is substantially correct.

[47] The witness was not certain of the date but was sure that it was subsequent to 1935.

[48] Dawkins' version of the incident was that the I. B. E. W. was discussed only with reference to its insurance program and that he had not told Romine that he felt that the respondent would prefer that Romine not join the I. B. E. W. In view of our findings above and below as to what various supervisors had stated the respondent's attitude to be, both before and after this time, we find that the version of the incident given above is substantially correct.

[49] The version given above is McRae's. Chambliss testified that the visit took place shortly before the election conducted by the Board in the fall of 1937; that a number of men from the hydroelectric plants had visited the substation during that period and he so informed McRae; that he, Chambliss, knew what McRae was there for and he was going to vote against the I. B. E. W.; and that he had told McRae that he "was going to do all the harm" to the I. B. E. W. that he could. Chambliss denied that he had said that the I. B. E. W. was misrepresenting when it said that the management was not hostile to it and that he had quoted Coleman to the effect that the employees' association was filling the bill. Chambliss could not recall that Coleman's name was mentioned. Chambliss also testified that there had been no banquet or meeting with the respondent's officials in years. W. S. Parrish, who was also present at the interview, substantially corroborated McRae's version of the interview. We find, therefore, that McRae's version of the interview is substantially correct but our finding does not go to whether or not Coleman in fact made the statement attributed to him at the interview by Chambliss.

[50] The employees' association informed the Board that it did not desire to have its name placed upon the ballot. Both the employees' association and the I. B. E. W. were active in campaigning for the election, attempting to persuade the employees to vote as the particular organizations desired. There is evidence in the record that Line Foreman Overton was requested to use his influence with his crew to get them to vote in favor of the I. B. E. W., but there is no evidence that he did so. A line crew usually consists of seven or eight men.

believed it inadvisable to meet with the employees' association. The employees' association took no immediate action with regard to this letter or the information contained therein.

4. The Employees' Association and the Independent, From July 23, 1938

On July 23, 1938, R. B. Freeman,[51] a member of the employees' association, called a meeting in Birmingham of employees selected from various localities, of whom many were members of the employees' association. At this meeting the Independent was organized. One of the employees invited to the meeting was Marshall Blackmon, who subsequently became the president of the Independent. On July 19, 1938, Freeman telephoned Blackmon and asked him to meet him, Freeman, on July 23, 1938, in the Thomas Jefferson Hotel in Birmingham. Blackmon asked Freeman what it was "all about" and Freeman said that he would tell Blackmon when he saw him. Blackmon testified that he had assumed that the meeting was about a union although he had no reason for making the assumption. Similarly, S. W. Templin,[52] who became one of the vice presidents and secretary-treasurer of the Independent, was invited to attend by Freeman and was told that he would find out what it was about when he arrived. About 12 employees and Rice, an attorney, attended the meeting. Rice had previously been retained by the employees' association in connection with the election held under the auspices of the Board in November 1937 and continued to represent the employees' association during the summer and fall of 1938. Freeman informed Heath, who inquired how the Independent happened to retain Rice, that Rice was retained by Freeman upon the recommendation of Howard Williams, treasurer of the general council of the employees' association.

The meeting was opened by Freeman, who stated that the purpose of the gathering was to organize an independent union which would meet the requirements of Federal and State laws. He explained that he had consulted Rice, had requested him to draw up a constitution, and had then called together those present as representative persons from each division to go over and ratify the constitution drawn by Rice. Freeman said that the employees' association was going to be "thrown out," because the charges made by the I. B. E. W. would be upheld by reason of the fact the employees' association was "derived" from the representation association. Rice also spoke and said that it was necessary to have a workable organization in the event that the employees' association were ordered disestablished by the Board because the Board, if there were only one labor organization in existence, would then "recognize" the I. B. E. W. as the exclusive bargaining agency without reference to whether or not it represented a majority. The constitution thus presented was adopted at the meeting after some changes had been made. It has never since been accepted by the membership of the Independent or by representatives designated by the membership. In addition, officers were elected at the meeting to serve 1 year or until their successors were elected.[53] A resolution was adopted that the name of the organization should be Independent Union of Alabama Power Employees, Inc., and that it be incorporated. Provision was made for monthly dues of 25 cents. On July 27, 1938, incorporation papers for the Independent were filed. On July 30, 1938, the officers of the Independent distributed a letter to employees announcing formation of the organization, enclosing a copy of its constitution and soliciting the employees to join.[54]

About August 1, 1938, Blackmon telephoned Lyle, the chairman of the general council of the employees' association and inquired as to the status of the employees' association. Lyle informed Blackmon that the employees' association was not negotiating with the respondent, that things were at a standstill. On August 11, 1938, the employees' association sent out a letter to its members informing them inter alia that charges involving it had been filed with the Board, denying that the employees' association was dominated or supported by the respondent, and stating that the employees' association had requested from the respondent that if the respondent should stipulate with the Board to withdraw recognition from or disestablish the employees' association, the respondent retain the right to advise the employees concerning the basis for such action.

On August 24, 1938, the independent sent out a letter, signed by Blackmon, to all employees, soliciting membership in the Independent and stating:

"* * * the (employees') association has successfully represented the majority of the employees without coercion or interference from anyone.

"Now after two elections in which the majority of the employees have signified their desire not to be represented by any outside labor organization, the I. B. E. W. has filed charges with the N. L. R. B. charging the Alabama Power Co. with unfair-labor practice arising out of its relationship with the Alabama Power Co. Employees' Association. * * * These charges, as we understand them (and it is the opinion of competent counsel), are sufficient grounds for the Labor Board to order the company to cease and desist negotiating with the * * * employees' association * * * if any one of these charges is sustained by the Labor Board, that would automatically disestablish the employees' association as our majority bargaining agency, which would, of course, leave the employees without majority representation. * * *

"* * * we are now again being forced to decide who shall bargain for us. The answer should be, as has been in the past two elections, the independent employee representative type of labor organization. This independent union has preserved for the employees the right to select who shall represent them to the company on matters of wages, hours, (etc.). * * *

"I have been a member of the * * * employees' association since its organization and definitely know that through its efforts it has received a better wage agreement and many worth-while accomplishments that could not have been negotiated by any other bargaining agency.

"I have discussed with the chairman of the * * * employees' association the status of the old organization, and he informed me that it would definitely disband and that no further dues would be collected. His letter to each of you [the letter of August 11, referred to above], he said, was to let you know that the old organization was not tucking its tail and running, but was emphatically denying charges made by the I. B. E. W. * * * The chairman has already made application for membership in the new organization [independent]."

This letter was prepared with Rice's assistance, as was all literature sent out by the independent.[55] Templin, the secretary of the independent, attended to the mailing of the letters to prospective members whose names, according to his testimony, he procured from the roster in the employees' association office[56] to which he had access as a councilman in the employees' association from the engineering department. Late in July 1938, the independent arranged with the employees' association, through Williams to use space in the employees' association office and to pay rent therefor for about a week. Subsequently, on October 1, 1938, the employees' association gave up the office space and the Independent took it over.[57]

Other letters were sent out from time to time soliciting the support of the employees for the independent. One of these letters was sent to S. R. Watson, superintendent of the Anniston district. Watson replied, in a letter to Blackmon, as follows:

"A few days ago I received a letter from you dated September 19, 1938, in which you invited me to sign an application for membership in the independent. * * * I believe that this must have been an error in addressing. Heretofore in my capacity as superintendent of the Anniston district * * * I have been barred by the rest of the employees from membership in their unions. I believe that was a reasonable ruling on their part and it seems to me that the ruling should still apply. However, if I am wrong and my membership would be of any value to the rest of the employees I will be only to (sic) glad to help."

Personal solicitation of membership in the independent was also carried on by those interested in the organization. They were assisted in this solicitation by the actions and attitudes of some of the respondent's supervisors. High Line Foreman R. L. Winn received independent literature from Templin and took it around to the houses of the members of his crew in July or August 1938. On August 8, 1938, after he had became a member of the independent, Winn accompanied Templin and another person active in the independent to an independent organizational meeting held in the home of J. R. Hall, Jr.,[58] then employees' association councilman from Martin Dam. This meeting was also attended by E. C. Milton, plant foreman of the Upper Tallassee and Thurlow Dams.[59] Winn addressed the meeting, spoke in favor of the independent, and told of grievances which had arisen among the members of his crew and which had been handled by the employees' association.

R. L. Winn's brother, W. D. Winn, a line foreman, during the noon hour on August 12, 1938, was filling out his own independent

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[51] Also referred to in the record as R. B. Freedman.

[52] Templin is the local manager of the Sylacauga substation, in charge of three other men.

[53] The same officers were holding office at the time of the hearing, no election having been held in September 1938, as required by the constitution, because the Independent had no money to pay for an election.

[54] On August 4, 1938, a second letter was sent out by the Independent to employees explaining that the organizers of the Independent had acted because of their feeling that "in view of certain charges having been filed by the I. B. E. W. with the N. L. R. B. * * * which charges, if sustained, would automatically disestablish the * * * employees' association, therefore leaving the employees without any majority bargaining whatsoever."

[55] No provision was made for the payment of Rice's fee. According to Blackmon, Rice was taking a chance upon the success of the Independent.

[56] The employees' association took office space on June 14, 1937. Prior to that time its records were kept in the respondent's building and it received mail from the respondent's mail box.

[57] From August 25, 1938, until October 1, 1938, the Independent rented other office space.

[58] J. R. Hall, Jr., is the clerk of the respondent's three hydroelectric plants located on the Tallapoosa River.

[59] A plant foreman of a hydroelectric plant is also commonly referred to as an "assistant superintendent." Plant foremen have the same powers as other foremen. They are in charge of the plants in the superintendent's absence, and can make recommendations concerning the hire or discharge of employees, the final word on such matters being reserved to E. W. Robinson, vice president in charge of operations, and S. M. Barry, vice president and general manager.

application card [60] in the respondent's local office and told two or three members of his crew who were present that those who cared to join the Independent might do so and that he would mail in their cards with his own. W. D. Winn also filled in a portion of one Rhodes' card at the latter's request. All the other members of W. D. Winn's crew had by then filled out their cards. At this time W. D. Winn was a councilman in the employees' association and testified that as far as he then knew the employees' association was still active.

A substation maintenance foreman, J. O. Summers, distributed Independent application cards to the members of his crew. Early in August 1938, Vernon Taylor was given an independent application card by his superior, W. H. Murray.[61] Murray told Taylor to look it over and if it suited him to fill it out and give it to Arthur Abels, who was in charge of the service department at Gadsden. At about the same time C. E. Packard, foreman in the turbine room at the Gorgas plant, asked Chester Jackson whether he had yet joined the Independent. Jackson said that he had not, that he wanted to know more about it first. Packard replied, "Well, the main thing is to keep the I. B. E. W. out of here. Ninety or ninety-five precent of the members of the independent union had rather not have any union at all, but they would rather have a company union than have the I. B. E. W." [62] That this was the attitude of the independent members is shown by the testimony of Blackmon, president of the Independent, who admitted at the hearing that the presence of the I. B. E. W. in the respondent's plants had some effect upon himself and the other organizers in coming to a decision to organize the Independent, although it was not "necessarily" one of the main reasons for organizing the independent.

On September 1, 1938, Lyle, chairman of the general council of the employees' association, acting upon the advice of Rice, wrote the respondent as follows:

"After due consideration of all the circumstances regarding the relationship of this association with Alabama Power Co., it has been decided to advise that effective immediately this association will not negotiate further with the company as the majority bargaining agent for their employees. * * *

"You are also advised that this association will not request any further pay-roll deductions for membership dues."

On September 7, 1938, the respondent replied to Lyle's letter and pointed out that the deductions were made upon the basis of individual authorizations and not upon the basis of an agreement between the employees' association and the respondent. On September 8, 1938, the employees' association replied and advised the respondent that it would not receive any "moneys representing payroll deductions * * * whether the employees have withdrawn their requests and authorizations or not." The respondent then sent out notices to the employees notifying them that it had been notified by the employees' association that it would receive no further pay-roll deductions in payment of dues and that the respondent could therefore no longer comply with the authorizations to make deductions for this purpose. The total amount deducted from salaries and paid over by the respondent to the employees' association for dues during the period that the check-off was in effect amounted to $7,115.40.

Lyle testified that this action was taken pursuant to the authority, to take whatever action Rice recommended, vested in him by the general council at an informal meeting, sometime in August 1938, at which five out of seven councilmen were present. No regular meeting was held for the purpose. Williams, treasurer of the employees' association, testified that the only activities carried on by the employees' association after June 30, 1938, were the administration of the health and accident insurance program and the hospitalization insurance program, which were sponsored by it. Williams further testified that no official of the organization had discussed with him the question of financing it after June 30, 1938.

Although there is conflicting evidence in the record as to whether or not the employees' association is still in existence, it is clear and we find that the employees' association ceased to act as a representative of the employees for purposes of collective bargaining with regard to wages, hours, and other conditions of employment on or about September 1, 1938. It is also clear that thereafter the employees' association continued to exercise its functions with regard to insurance programs, of which it was the sponsor.

[60] These application cards are almost identical with those used by the employees' association and were copied from the latter. Attached to them are authorizations to the respondent to deduct independent dues from salary due the employees, identical with those used by the employees' association. These authorizations have not been presented to the respondent.

[61] Murray was an employees' association councilman in June 1937. His term expired in April 1938.

[62] Packard denied that any such conversation had taken place. He also testified that Jackson's general reputation for truth was bad, that Jackson had made a number of misstatements. Jackson testified that immediately after the conversation he made a memorandum of the conversation. This memorandum was introduced into evidence. The memorandum gives a version substantially similar to that given in the text above, which is a quotation of Jackson's oral testimony. The trial examiner, who observed the behavior of the witness on the stand, found that Jackson's testimony was truthful. We see no reason to question the memorandum made by Jackson shortly after the conversation and we find that the version of the conversation appearing in the text above is substantially correct.

On September 9, 1938, the independent wrote to the respondent advising it that the independent had been organized, that a majority of the employees were expected to join, and that when they had done so the independent would request recognition. A copy of the independent's constitution and bylaws was enclosed. On October 14, 1938, the independent wrote to the respondent claiming to represent a majority of the employees and requesting recognition as bargaining agent for the employees. On October 17, 1938, the respondent replied that a complaint had been issued by the Board against the respondent alleging that it had assisted in the formation of, and had contributed support to, the independent; and that in view of the pending complaint, the respondent thought it inadvisable to recognize the Independent until further developments on the complaint.[63]

5. Conclusions

It is clear from the record that the representation association was originally set up by the respondent; that it received complete financial support from the respondent from its inception until July 5, 1935, that all its meetings were held upon the respondent's premises, usually during working hours; and that the respondent's other property was used freely by the representation association in the conduct of its business. It further appears and we find that the respondent's purpose in setting up and continuing to support the representation association was to counteract the organizational activity of the I. B. E. W. That this was the respondent's purpose is shown by the fact that the representation association was organized at the time when the I. B. E. W. was becoming active in its campaign for membership; by the respondent's hostility to the I. B. E. W., as demonstrated by numerous remarks of supervisory officials to that effect; and by Superintendent Lineberry's statement to the employees under his supervision that he had told Barry that if the respondent would restore the bonus and give a wage increase he thought the agitation among the employees would stop and no form of representation would be necessary That the respondent was deeply interested in the adoption of the Barry plan is further indicated by the activities of Superintendents Ames and Lineberry in connection with the employees' election upon the acceptance or rejection of the Barry plan. It will be recalled that Ames had the plan resubmitted to a vote when the first vote resulted in the defeat of the plan at the Magazine plant and that Lineberry warned that if the employees could not see the question of the plan as the respondent saw it, they would sooner or later have to seek work elsewhere. That the superintendents were acting pursuant to the respondent's well-understood policy that the plan was to be the form of employee representation to exist in its system, and as such was to be accepted by the employees, is demonstrated by Superintendent Dawkins' statement that it would "look bad" for his plant if the men did not join.

The foregoing, together with the pressure put upon employees to join the representation association by superintendents in at least two plants, and the continued expression of the respondent's hostility to the I. B. E. W. by supervisors, indicate clearly that the Barry plan was forced upon the employees and was in no sense their free and untrammelled choice. Nor was the election of September 1934 held by the National Labor Board a much better test of the employees' desires in the matter of representation. The respondent interfered with and attempted to influence the results of this election by bearing the expenses of the representation association's campaign, by urging the employees to give it a 90-day chance, and by Lineberry's suggestion that Kindley use his influence to get the men to "vote right." In view of Lineberry's outspoken attitude of hostility to the I. B. E. W., we entertain no doubt that he intended that the men should vote in favor of the representation association. In addition to the foregoing, the respondent further clarified its hostility to the I. B. E. W. and favoritism to the Barry plan, by denynig the I. B. E. W. use of its facilities, while giving the representation plan complete financial support.

The respondent not only initiated and completely supported the representation association, it also interfered with the day-to-day administration of the plan. As stated above, Superintendent Dawkins complained to Ross, the chairman of the production division council, about the latter's activity in taking up grievances and warned him that, for his own good, it would be well to handle grievances as the plan provided. This implied threat to Ross' well-being in an attempt to prevent him from exercising his best judgment in behalf of his constituents is the clearest form of domination and interference with the affairs of a labor organization.

We find that the respondent was entirely responsible for the original organization of the representation association and that it thereafter interfered with its administration and dominated and supported the representation association until July 5, 1935. The respondent contends that these acts, which took place prior to the effective date of the act, are immaterial since they were

[63] The Independent claims to have over 1,100 members, of whom 60 percent are said to be employees classified as field or physical workers. A total of 1,191 employees voted in the election held in November 1937 under the auspices of the Board. The record does not disclose the total number of employees who were entitled to vote in this election. The record does show that it was not unusual for an employee to be a member of the I. B. E. W. and at the same time to be a member of the representation association or the employees' association, but it does not indicate whether there are many employees who belong both to the I. B. E. W. and the independent

not in violation of the act. As already stated, the respondent's activities prior to the effective date of the act are not unfair labor practices within the meaning of the act, but their influence upon the employees and their results continued after that date. On July 9, 1935, the general council of the representation association, holding a meeting in the respondent's building in Birmingham, decided to notify the respondent that no more expenses would be turned over to the respondent for payment. Other than this cessation of the respondent's direct financial support,[64] the representation association continued unchanged after the effective date of the act until the amendment of its constitution of August 20, 1935, which resulted in the formation of the employees' association. We find that after the effective date of the act, the respondent continued to interfere with, dominate, and support the representation association, an organization originally formed by it, and thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in section 7 of the act.

Through the action of Howard Williams, then the secretary of the general council of the representation association, the respondent bore a substantial portion of the cost of the amendment to the constitution of the representation association which resulted in the organization of the employees' association. It paid for the mimeographing and paper required for the various necessary documents and paid Williams' traveling expenses in connection with the amendment. Although the respondent's major outlay was made[65] prior to the effective date of the act, nevertheless it resulted in substantial assistance in the formation of the employees' association, since neither the representation association nor the employees' association had, at that time, any funds of their own, and a large number of documents were prepared.[66]

The amendment made only two substantial changes in the Barry plan; it changed the name of the organization and it allowed dues of 15 cents a month to be assessed in the event that payment of expenses by the respondent should violate any law. The officers of the representation association continued to act as officers of the employees' association; they continued to use the representation association books and records in the transaction of the employees' association's business; and continued and concluded the negotiation of an agreement with the respondent, which they had initially sought as officers of the representation association. Meetings and elections of the various councils of the employees' association continued to be held upon the respondent's premises, sometimes during working hours.[67] Such expenses of the amendment to the representation association as were not met by the respondent in the manner above indicated were ultimately paid out of the funds of the employees' association.[68] It is clear from the foregoing, and we find, that the employees' association is the same organization as the representation association, operating under a new name; that the respondent contributed financial support to the formation of the employees' association; and that it thereafter assisted the employees' association by allowing it free use of the respondent's property and time for meetings and elections. We find further that the respondent aided the employees' association by collecting its dues through the "check-off" system administered by the respondent. The "check-off" did more than merely facilitate the collection of dues. It also discouraged the employees from withdrawing from the employees' association, since the only method of stopping the payment of dues was to notify the respondent to cease making the deductions. Since the employees were made well aware of the respondent's desire that the employees' association endure, both by the assistance rendered to it and by the activities of supervisory employees, they would naturally be hesitant to advise the respondent to cease deducting dues. Thus the "check-off" tended to perpetuate the effects of the respondent's unfair labor practices.

During the active existence of the employees' association the respondent's officials made it clear to the employees that they would do well to join the employees' association rather than the I. B. E. W.; that the respondent would do more for them if they were not I. B. E. W. members; that they should join the employees' association and "build up" themselves with the respondent; and that I. B. E. W. members need not expect good jobs. This course of conduct clearly interfered with the formation and administration of, and gave support to, the employees' association, since its necessary effect was to make the employees fearful that a failure to join the employees' association rather than the I. B. E. W. would result in economic hardship to, or discrimination against, them.

Upon the basis of the foregoing we find that the respondent has dominated and interfered with the formation and administration of the employees' association and has contributed financial and other support thereto and has thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed by section 7 of the act.

By the activities of the respondent's officials and by the various forms of support contributed to the employees' association, the employees were fully advised that the respondent favored the employees' association and that a failure to support that organization might result in some economic injury to themselves. The employees also knew that the respondent had persisted in its policy of support and favoritism with respect to both the representation association and the employees' association over a long period of time, both before and after the effective date of the act. Under these circumstances, we find that the employees could not have felt free in their choice of bargaining representatives. Thus the election of November 1937, held under the auspices of the Board, was not a true indication of the desires of the employees as to a bargaining representative.

The final consideration here presented is that of whether or not the Independent has been dominated, interfered with, and supported by the respondent. The Trial Examiner found that the respondent caused to be formed, and sponsored, the independent. The evidence relating to the respondent's direct interference in the formation of the independent is summarized above and concerns the assistance given the independent by supervisors in the solicitation of members. Foreman R. L. Winn distributed Independent literature to the members of his crew at their homes; he attended and spoke at an independent organizational meeting; Foreman Milton attended the same meeting; Foreman W. D. Winn offered to mail in the application cards of the members of his crew with his own; Foreman Summers distributed application cards to the members of his crew; Foreman Murray gave Taylor an application card and told him to fill it out if it suited him; and Foreman Packard asked Jackson if he had joined the independent and advised him that the principal object of the independent was to keep out the I. B. E. W. As to all these foremen, the respondent contends that there is nothing in the character of their position upon which to base an inference that they could speak for the respondent in a matter of policy affecting the respondent's entire system. The foremen in question have authority to make recommendations concerning the hiring and discharge of employees, who work under their immediate direction and take orders from them. They represent the management to those working under them and as such have at least apparent authority to inform the employees upon the respondent's policy. The respondent is responsible for their activities.[69]

The respondent also urges that the assistance contributed by the foremen is no indication of interference with, or domination or support of, the independent because foremen are eligible to I. B. E. W. membership. Whatever may be the merits of such a contention under other circumstances, we do not regard it as valid under those here presented. Here the respondent had, for almost 4 years, followed a policy of dominating, interfering with, and supporting labor organizations of its employees. It had, as we have found, made plain to them upon many occasions its hostility to the I. B. E. W., had threatened to discriminate against those who persisted in remaining members of the I. B. E. W., and had advised employees that they would better their positions by being members of the representation association or of the employees' association. The respondent took no action at any time to advise the employees that there was any change in this policy, or that it no longer intended to dominate and support organizations of its employees which were amenable to its wishes. Under these circumstances, the employees could not have felt free to join whatever organization they desired.[70] In addition to the above considerations, it may be pointed out that while the record discloses that at least two foremen were members of the I. B. E. W., there is no evidence in the record that they undertook solicitation in behalf of the I. B. E. W. after the effective date of the act.

We find that by the activities of the foremen in behalf of the Independent, the respondent interfered with the formation of, and gave assistance to, the independent.

An analysis of the constitution and organizational structure of the Independent supports the conclusion that it is not an organization capable of operating independently of the respondent's wishes. In many respects, the constitution is similar to, and in some instances almost identical with, the constitution of the employees' association. It will be recalled that, with the two exceptions noted above, the constitution of the employees' association was substantially the Barry plan which had been foisted upon the employees by the respondent. The constitution of both the employees' asso-

[64] The employees as a whole were given no notice that the respondent had ceased giving direct financial support. So far as they knew, the representation association was still fully supported by the respondent.

[65] The respondent's machines, after the effective date of the act, were used by the representation association to fill in blank dates left in the documents.

[66] Further assistance in the organization of the employees' association was the advice of the respondent's attorney upon the wording of one section of the amendment. Williams' action in showing the proposed amendment to the respondent's attorney further indicates the subservience to the respondent of those responsible for the organization of the employees' association.

[67] As stated above, the Council meetings held in Birmingham were not held upon the respondent's premises after May 1937, but local meetings and elections were so held at least as recently as April 1938.

[68] The expenses were originally met by various officials of the representation association and they were reimbursed by the employees' association.

[69] *Matter of Swift & Co.* and *Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 641 et al.*, 7 N. L. R. B., 268, enf'd as mod., *Swift & Co.* v. *N. L. R. B.*, 106 F. (2d) 87 (C. C. A. 10).

[70] There is some evidence in the record that one or two of the respondent's officials had, in the past, stated that employees were free to join any labor organization they desired. However, in the face of many statements and other indications to the contrary, they could have carried little weight with the employees.

ciation and the independent limit their membership to the respondent's employees and provide that membership is terminated upon the termination of the employer-employee relationship. Both establish three tiers of employee-representation councils (in the case of the Independent, called boards), local councils, division councils, and a general council (in the case of the Independent, called the executive board) and in which the chairmen of the local councils or boards make up the division councils or boards, and the chairmen of the division councils or boards make up the general council or executive board. The Independent has changed the electoral divisions in some of the divisions and has added a division or two, but the plan of organization is essentially that of the employees' association, namely, an employees' representation plan in which the membership as a whole is far removed from any direct control over the highest governing body, the general council or the executive board.

Both constitutions require that employee representatives be members of the organization and employees of 1 year's standing, which effectually prevents the employees from designating nonemployees as their bargaining representatives. Both provide that employee representatives who leave the respondent's employment or who are transferred from the electoral division from which they were elected are deemed to have vacated their offices. This provision vests in the respondent control over the representatives chosen by the employees. If an employee representative is distasteful to the respondent for any reason, it can prevent him from acting as such by discharging or transferring him. The respondent originally vested this control in itself in the Barry plan and maintained it thereafter in the constitution of the employees' association. That the Independent should provide the respondent with the power to disqualify the representatives selected by the employees is persuasive evidence of the independent's subservience to the respondent.

Representatives who are themselves employees, completely dependent upon the respondent, cannot act freely in the interest of their constituents unless they are in some way protected against economic coercion by the respondent. The constitution of the Independent makes no attempt to provide such protection. On the contrary, it provides that its members, which includes the employee representatives, lose their membership if they cease being employees. Having lost his membership, an employee representative could not have his discharge protested as a grievance since provision is made only for taking up the grievances of members.

Neither constitution makes provision for general membership meetings at which the membership can discuss its problems and instruct its representatives. Under both constitutions, meetings can only be called by the various councils or boards or upon petition of a large number of members. The membership's only functions under both constitutions appear to be the payment of dues and voting for representatives or on amendments to the constitutions. This pattern of membership nonparticipation, as well as the other essential elements of organizational structure discussed above, was originated by the respondent in the Barry plan, continued thereafter through the medium of the employees' association, and was ultimately adopted by the independent. The organizers of the independent necesarily were aware of the respondent's sponsorship of the employees' association. The form taken by the Independent clearly flowed from the respondent's hostility to outside labor organizations and its open preference for the employees' association and its predecessor, the representation association.

In view of the foregoing, the independent may realistically be regarded as the successor to the employees' association. It is apparent, moreover, that the two organizations are more closely related than the organizers of the former were willing to acknowledge. They did admit, however, that the independent was organized to supplant the Employees' Association and that one of the factors leading to its formation was a desire to prevent the I. B. E. W. from becoming the majority representative. As noted above, the respondent originally formed the representation association to prevent the I. B. E. W. from gaining a foothold and as a part of its policy of opposition to the I. B. E. W. The respondent continued its policy of opposition to the I. B. E. W. and support of a competing labor organization after the organization of the representation association's successor, the employees' association. In this respect, the independent was the direct successor to the employees' association as the respondent's bulwark against the I. B. E. W. The independent took care to emphasize to the employees that it was the employees' association's successor. In its letter to the employees of August 24, 1938, the independent pointed out that, like the two associations, it was "the independent employee representative type of labor organization," and that the chairman of the employees' association had joined the independent. Viewed against the background of the respondent's policy of support of labor organizations of the type represented by the Independent, the letter indicated to the employees that they would do well to join the independent, as successor to the favored employees' association.

A further connection between the employees' association and the independent appears in the similarity of their constitutions. Both employed the same attorney, who represented and advised them concurrently. As early as August 1, 1938, the chairman of the general council advised one of the organizers of the independent that the employees' association would not longer act as bargaining agent, but made no formal disclosure to this effect to the respondent until September 1, 1938. On September 7, 1938, the independent was sufficiently organized to advise the respondent that it would soon be seeking recognition as the exclusive representative of the employees. Other factors point to a substantial identity of the employees' association and the independent. The former allowed the latter to use its membership lists for organizational purposes; a number of employees' association councilmen were active in soliciting in behalf of the independent; Howard Williams, prominent member and treasurer of the employees' association, assisted in mailing independent literature; and the chairman of the employees' association's general council joined the independent before any notice was given to the respondent or to the membership of the employees' association that it would no longer act as bargaining representative.

Under the circumstances, we think it clear that the independent's organizers, the respondent, and the respondent's employees, all regarded the Independent as the successor to the employees' association, designed to combat the I. B. E. W. on the respondent's behalf.

We deem it important to stress again the effect of the respondent's long-standing and widely expressed policy of hostility toward truly independent labor organizations in general and the I. B. E. W. in particular. The fundamental purpose of the act is that employees should be afforded a full and free opportunity to choose their bargaining representatives, without the influence of the employer being brought to bear, either bluntly or subtly, so as to interfere with their choice. The respondent's failure to make any genuine effort to undo the effects of its unfair labor practices and to conform its labor policy to the law of the land is clear. Its 4-year campaign of sponsorship of "inside" organizations and hostility to the I. B. E. W. was in no wise disavowed by the mere diminution of the vigor with which this policy was proclaimed to the employees. The conclusion is inescapable that the formation of the independent was in large part a response to the continuing desire of the respondent for a labor organization patterned after its own creature, the original representation association.

We find that the continued existence of the independent, with the accompanying background of employer interference, domination, and support of its two predecessor organizations, offers a permanent obstacle to any free choice by the employees or their representatives for the purposes of collective bargaining.

Upon the basis of the foregoing, we find that the respondent dominated and interfered with the formation and administration of the independent, and contributed support to it, and thereby interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in section 7 of the act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

We find that the activities of the respondent set forth in section III above, occurring in connection with the operations of respondent described in section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

We have found that the respondent has dominated and interfered with the formation and administration of the representation association, the employees' association, and the independent, and has contributed support to them. In order to effectuate the policies of the act and free the employees of the respondent from such domination and interference, and the effects thereof, which constitute a continuing obstacle to the exercise by the employees of rights guaranteed by the act, we shall order the respondent to withdraw all recognition from the employees' association, to disestablish it as a representative of the employees for the purposes of collective bargaining with respect to grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment. We shall not, however, extend our order of disestablishment to the relationship between the respondent and the employees' association insofar as it pertains to the accident and health insurance program and the hospitalization insurance program sponsored by the employees' association. We shall further order the respondent not to recognize the Independent in the future as a representative of the employees for the purposes of collective bargaining. We have found that the sum of $7,115.40 was turned over by the respondent to the employees' association pursuant to an agreement by the respondent to collect dues for the Employees' Association by pay-roll deductions, such collection of dues being a further type of support and assistance rendered to an employer-dominated organization. As we said in matter of the Heller Brothers Co., of Newcomerstown, and International Brotherhood of Blacksmiths, Drop Forgers, and Helpers: [71]

"It seems plain to us that the authorization by an employee for the check-off of dues owed to an organization which his employer has formed and continues to dominate cannot be considered as having been voluntarily given by the employee. When check-off authorizations are sought under such conditions the employee is placed in a position of permitting the check-off or of putting himself squarely upon record as openly opposed to the company's wishes. No employee confronted with such an option can be regarded as having exercised free choice. Thus the same pressures by the respondent which compelled its employees to abandon their free choice of representatives enforced their acquiescence in the check-off. Under the circumstances we will restore the status quo by ordering the respondent to reimburse its employees for amounts deducted from wages as dues for the Independent."

[71] 7 N. L. R. B. 646. See also *Matter of West Kentucky Coal Co.* and *United Mine Workers of America, District No. 23*, 10. N. L. R. B. 88.

Adapting the reasoning of the above-quoted paragraph to the facts in this case, we will order the respondent to make whole its employees individually for the full amounts deducted from their wages as dues.

Since we have found that the representation association is no longer in existence, we shall make no order with respect to it.

The respondent will, in addition, be ordered to cease and desist from dominating and interfering with the formation and administration of and from contributing support to the employees' association, independent, or any other labor organization; and to cease and desist from interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing and to engage in concerted activities, for the purposes of collective bargaining or other mutual aid or protection.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. International Brotherhood of Electrical Workers, Alabama Power Employees' Association, and Independent Union of Alabama Power Employees, Inc., are labor organizations and Alabama Power Co. Employees Representation Association was a labor organization within the meaning of section 2 (5) of the act.

2. The respondent, by dominating and interfering with the formation and administration of the Alabama Power Co. Employees' Representation Association; Alabama Power Employees' Association; and Independent Union of Alabama Power Employees, Inc., and by contributing support to said organizations, has engaged in and is engaging in unfair-labor practices, within the meaning of section 8 (2) of the act.

3. The respondent, by interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed by section 7 of the act, has engaged in and is engaging in unfair-labor practices, within the meaning of section 8 (1) of the act.

4. The aforesaid unfair-labor practices are unfair-labor practices affecting commerce within the meaning of section 2 (6) and (7) of the act.

ORDER

Upon the basis of the above findings of fact and conclusions of law, and pursuant to section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Alabama Power Co., Attalla, Ala., and its officers, agents, successors, and assigns, shall—

1. Cease and desist from—

(a) In any manner dominating or interfering with the administration of Alabama Power Employees' Association and Independent Union of Alabama Power Employees, Inc., or with the formation or administration of any other labor organization of its employees, and from contributing support to said Alabama Power Employees' Association or to Independent Union of Alabama Power Employees, Inc., or to any other labor organization of its employees;

(b) In any other manner interfering with, restraining, or coercing its employees in the exercise of the rights to self-organization, to form, join, or assist labor organizations, to bargain collectively with representatives of their own choosing, and to engage in concerted activities, for the purposes of collective bargaining or other mutual aid or protection, guaranteed in section 7 of the act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the act:

(a) Withdraw all recognition from Alabama Power Employees' Association as a representative of any of its employees for the purposes of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, and completely disestablish Alabama Power Employees' Association as such representative; provided that the withdrawal of such recognition shall not require the interruption of the relationship between the respondent and the Alabama Power Employees' Association relating to the accident and health insurance program and the hospitalization insurance program sponsored by Alabama Power Employees' Association;

(b) Refrain from recognition of Independent Union of Alabama Power Employees, Inc., as a representative of any of its employees for the purposes of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment;

(c) Reimburse, individually and in full, all employees who were, or still are, members of Alabama Power Employees' Association for all dues which it has deducted from their wages, salaries, or other earnings, on behalf of Alabama Power Employees' Association pursuant to the arrangement between the respondent and the Alabama Power Employees' Association;

(d) Immediately post notices in conspicuous places in each of its plants, office buildings, or other buildings throughout its system, and maintain such notices for a period of 60 consecutive days, stating that the respondent will cease and desist in the manner set forth in 1 (a) and (b), and that it will take the affirmative action set forth in 2 (a), (b), and (c) of this order;

(e) Notify the regional director for the fifteenth region in writing within 10 days from the date of this order what steps the respondent has taken to comply herewith.

[From the Radio and Electrical Union News of July 1940]

ALABAMA POWER WORKERS REAFFIRM DETERMINATION—COMPANY UNION BATTERIES AND PLUG-UGLY BOSSES FAIL TO SHAKE COURAGE OF L. U. 904—LAW FLOUTED BY WILLKIE UTILITY

TALLASSEE, ALA.—Still one of the blackest spots on the utility map, the Alabama Power Co. continues its incessant war on organized labor. The company is a unit of the vast Commonwealth & Southern, a huge holding corporation of which, until his very recent resignation, Wendell L. Willkie, former Democrat and now Republican nominee for Presidency of the United States, was chairman of the board of directors.

Whether Willkie is at fault or not is beside the question. Undoubtedly, if he is interested in labor at all, he might very easily rectify the deplorable situation now existing on this power system.

SIX YEARS CONTINUOUS

The battle for labor recognition on this property has been raging for about 6 years, has run the gantlet of every device conceived in the minds of labor-hating bosses to destroy all semblance of democracy, company unionism has run rampant, the Labor Relations Act has been flouted and laughed at, Labor Board orders have been ignored or corrupted by the tycoons, and plug-uglies have incited riotous conditions to discredit union affiliation.

"Even in this year 1940," states an observer, "men are forced to face the same brutal conditions on this company's property that were thought to be wiped out decades ago.

"Just a few instances will serve to show the deplorable treatment meted out to those who dare to exercise their right to join a union of their own choosing.

UNION MEMBER SLUGGED

"A steam plant superintendent, notorious for his slave driving and labor baiting, slugged a union member who dared to resent being falsely labeled a thief. A hydro plant foreman threatened to knock another union member on the head when the member offered some constructive criticism of the foreman's faulty work. The known presence of company spies keeps everyone on nerves' edge and the widespread enmity of bosses for union members has reduced efficiency to a low ebb.

"In addition to all of this the company is still resisting an order to refund dues deducted from the payroll for the support of a company union, condemned as illegal under provisions of the Labor Act. The amount due is in excess of $10,000.

"This battle provoked and continued by the company since 1934, is probably the most outrageous anti-union campaign in recent history. But I. B. E. W. Local Union 904 continues to hold the fort for organized labor. We shall win."

[In the United States Circuit Court of Appeals for the Seventh Circuit. July 23, 1940. *National Labor Relations Board*, petitioner, v. *Southern Indiana Gas and Electric Co.*, respondent]

ORDER

The National Labor Relations Board having issued an order against respondent, Southern Indiana Gas & Electric Co., Evansville, Ind., pursuant to a stipulation entered into by the parties on May 11, 1940, and the parties having consented to an entry of a decree of this court enforcing said order of the Board, and the Board having petitioned this court for the enforcement of its said order; upon consideration of the petition of the Board for enforcement of said order and the stipulation of the parties; it is hereby ordered, adjudged, and decreed that Southern Indiana Gas & Electric Co., Evansville, Ind., its officers, agents, successors, and assigns shall—

1. Not—

(a) Dominate or interfere with the administration of the Association of S. I. G. E. Employees, Inc., or the formation or administration of any labor organization of its employees or contribute support to the Association of S. I. G. E. Employees, Inc., or to any other labor organization of its employees;

(b) In any manner, interfere with, restrain, or coerce its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in section 7 of the National Labor Relations Act.

2. Take the following affirmative action in order to effectuate the policies of the National Labor Relations Act:

(a) Withdraw all recognition from the Association of S. I. G. E. Employees, Inc., as a representative of any of its employees for the purposes of dealing with the company concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment;

(b) Post immediately notices in conspicuous places throughout its plant and maintain such notices for a period of 30 consecutive days, stating that the respondent will not engaged in any of the acts or practices set forth in paragraph 1 (a) and (b) of this order, and that it will take the affirmative action set forth in paragraph 2 (a) and (b) of this order;

(c) Notify the regional director for the eleventh region of the National Labor Relations Board within a period of 10 days after

the entry of this order what steps have been taken to comply with said order.

EVAN A. EVANS,
Judge, United States Circuit Court of Appeals for the Seventh Circuit.

WILLIAM M. SPARKS,
Judge, United States Circuit Court of Appeals for the Seventh Circuit.

OTTO KERNER,
Judge, United States Circuit Court of Appeals for the Seventh Circuit.

Approved July 19, 1940.

SOUTHERN INDIANA GAS & ELECTRIC CO.
By (Signature illegible),
Executive Vice President.

SIMPLIFICATION OF ACCOUNTS OF TREASURER OF THE UNITED STATES

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 844) to simplify the accounts of the Treasurer of the United States, and for other purposes, which was, in line 7, to strike out "1940" and insert "1941."

Mr. WAGNER. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

SUSPENSION OF CIVIL LIABILITIES OF CERTAIN PERSONS IN THE ARMED FORCES

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 4270) to promote and strengthen the national defense by suspending enforcement of certain civil liabilities of certain persons serving in the Military and Naval Establishments, including the Coast Guard.

Mr. SHEPPARD. I move that the Senate disagree to the amendment of the House of Representatives, request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the President pro tempore appointed Mr. SHEPPARD, Mr. THOMAS of Utah, Mr. OVERTON, Mr. AUSTIN, and Mr. GURNEY conferees on the part of the Senate.

IMPROVEMENT OF RIVERS AND HARBORS IN THE NATIONAL DEFENSE

The Senate resumed the consideration of the bill (H. R. 9972) authorizing the improvement of certain rivers and harbors in the interest of the national defense, and for other purposes.

Mr. BAILEY. Mr. President, before we proceed with committee amendments, I think it would be appropriate for me to make a brief statement about the bill.

The bill before us is not a customary river and harbor improvement bill. It has an extraordinary aspect in that it is founded upon the national defense, not the national defense as a pretext, but the national defense as an actuality, and I am hoping that we may confine the legislation, for the present, at any rate, to the technical national defense; that is, that the projects in the bill, or projects which may be proposed by way of amendment, shall have been approved by the duly constituted authorities, to wit, the Board of Engineers of the Army, or the Commander in Chief, the President of the United States, or the Navy authorities, or the Coast Guard authorities, as actual necessities of the present national-defense program of our country.

I think I should make a further statement in this connection. During the present session of the Congress the House of Representatives and the Senate passed a river and harbor bill authorizing the appropriation of about $110,000,000.

That measure was vetoed, and in the veto message the President declared that the Congress ought not to authorize so large an expenditure, in view of the current necessities of the national defense. Sympathetic with that view, I did not move to override the veto, nor was a motion to override it made in the other House, but thereafter the House of Representatives prepared the bill which is before us—House bill 9972.

The Committee on Commerce has approved the bill practically as written, making only one material addition. That happens to be a rather costly addition, but I think a very important one. The House bill authorized the appropriation of $24,000,000 for 22 projects—the list of the projects appearing on page 6 of the report—but the Senate committee, upon the advice of the Army engineers, modified the provision with respect to the Los Angeles and Long Beach Harbors in California, so as to increase the cost of the projects there from $7,000,000 to $17,000,000. So whereas the House bill as passed calls for only $24,000,000, the bill before the Senate, by that single modification, increases the sum by more than $10,000,000—that is, to $35,000,000.

Mr. CLARK of Missouri. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. CLARK of Missouri. Inasmuch as this is, at least ostensibly, purely a national-defense measure, what changed the situation, so far as the Army engineers are concerned, as to defense requirements between the time the House passed the bill and the time the bill was presented to the Senate?

Mr. BAILEY. I can state to the Senator that the change is only with respect to the Los Angeles and Long Beach projects.

Mr. CLARK of Missouri. I understand that, but I am asking the Senator with regard to those particular projects.

Mr. BAILEY. The original projects provided for a breakwater off Long Beach, in the interests of the Navy, of 7,000 feet, in order to provide harbor facilities. The engineers advised us that there was needed a breakwater of 21,000 feet, and that is what makes the difference.

Mr. CLARK of Missouri. Mr. President, will the Senator yield further?

Mr. BAILEY. I yield.

Mr. CLARK of Missouri. Did the engineers so advise the House committee and the House?

Mr. BAILEY. I do not know.

Mr. CLARK of Missouri. Has the situation in regard to the Los Angeles and Long Beach Harbors changed in the slightest degree since the engineers made the recommendation to the House committee or the House?

Mr. BAILEY. Mr. President, I do not think the situation in the harbors has changed, but the situation with respect to the defenses of the country has changed.

Mr. CLARK of Missouri. Mr. President, if the Senator will yield further——

Mr. BAILEY. Let me answer the Senator. I wish to be very courteous and patient with him and also to be as informing as possible. The engineers advised the Committee on Commerce of the Senate that the 21,000-foot extension was essential. Whether they had so advised the House I do not know, and I have not made inquiry. But the committee responded to the advice of the engineers.

Mr. President, let me say here something which I should like to say. In all these matters most Senators have no technical knowledge. I have never known what to do in matters of this sort, except to defer to the judgment of engineers, because I am not an engineer. In all matters affecting the defenses of our country I must coordinate my judgment with the judgment of the experts who are in charge.

If I may make a brief side remark, I have had a great deal of correspondence lately with my constituents, many of them seeming to understand just what the country should do in the matter of its defense, and I have notified them in all cases that I considered it my duty to defer to the judgment of the Chief of Staff of the Army and the Chief of Naval Operations of the Navy in the matters of defense, on the ground, first, that this Government is one of coordinate powers, and, second, that, after all, I am not a competent judge of what is necessary and what is not necessary for the national defense. It is a highly technical matter.

I hope I have answered the Senator to the extent of giving him a statement of my point of view. He may know—I am not saying he does or does not—that a 7,000-foot breakwater is entirely sufficient. I do not know whether a 21,000-foot breakwater is more than sufficient or not. It is a technical question, and I am advocating the amendment wholly because the technical authorities have told us that it is important to the national defense.

Now, if the Senator from Missouri knows better, all right.

Mr. CLARK of Missouri. Mr. President, will the Senator yield at that point?

Mr. BAILEY. I yield.

Mr. CLARK of Missouri. Let me say that I again question the Senator with very great trepidation because he expressed his feelings with great patience just a moment ago in yielding to one question, so I certainly do not intend to trespass very far upon time of the Senator from North Carolina.

Mr. BAILEY. I appreciate the Senator's statement.

Mr. CLARK of Missouri. Let me say that the Senator from Missouri does not profess to be a technical expert on the matter any more than does the Senator from North Carolina; but this seems to me to be an extraordinary matter. The President of the United States announced, in vetoing the former river and harbor bill, that he would be willing to sign a bill for certain defense river and harbor projects. Then the bill was passed by the House with a provision for only a 7,000-foot breakwater. I do not know whether a 7,000-foot breakwater is needed, or a 21,000-foot breakwater, or a 100,000-foot breakwater, but it seems to me to be an extraordinary circumstance that the bill passed the House of Representatives containing a provision for a 7,000-foot breakwater, and for the first time, apparently, when the bill was in the Senate committee, these great experts, for whom, incidentally, I have profound respect, finally said they needed a 21,000-foot breakwater.

I should like to know whether the Army Engineers have changed their opinion on the subject of whether they needed a 7,000-foot breakwater or a 21,000-foot breakwater.

Mr. BAILEY. I think it might be said that they have changed their opinion. The opinion first was that a 7,920-foot breakwater was needed. Now the recommendation is for a 21,000-foot breakwater. In order that we may clear this matter, and place the responsibility upon the duly constituted and technical authorities, let me read a letter which appears in the report on page 2, addressed to me by the Navy Department, under date of August 9:

> MY DEAR MR. CHAIRMAN: The Navy Department has recommended under date of August 5, 1940, to the War Department, a proposed amendment to bill H. R. 9972 (Rept. No. 2361), with a view to having the authorization for the breakwater extension at Long Beach, Calif., changed from a length of 7,920 feet to 21,000 feet, not only because this extension would provide the secure anchorage desired for the increased fleet but also because the Department has secured funds and is about to undertake the construction of fleet facilities on Terminal Island for the supply and docking of ships, antisubmarine net storage, and other fleet facilities.
>
> The Navy Department is vitally interested also in a number of items in the bill which are of a national-defense character, such as the dredging in San Diego Harbor, the breakwater at Sitka Harbor, Alaska, the channel at Kodiak, Alaska, the dredging of Keehi Lagoon, Oahu, T. H., and the dredging at San Juan, P. R.

That is the statement. The Navy requests the project in the interest of the Navy, and I think the change was brought about because Congress has authorized a tremendous increase in the Navy.

I hope that explanation is satisfactory to my distinguished friend the Senator from Missouri. In my remark about patience, I did not mean to indicate that I was in the slightest degree impatient with him.

Mr. OVERTON. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. OVERTON. In connection with the same project there is also a recommendation by the Secretary of War, as shown in the report submitted by the Committee on Commerce, on pages 2 and 3.

Mr. BAILEY. Yes. Mr. President, that is the only change of significance as between the House bill and the Senate bill.

With one more remark I shall be prepared to go forward with the amendments and the discussion of the measure. As I have said, the former bill was vetoed because it went beyond the necessities of the present time relating to the national defense. We may open the door, and one Senator after another may come in with his projects, and we may load down the legislation and bring about another veto. We may defeat the whole program by opening the doors and admitting all sorts of projects. Certain amendments will be offered, and I hope we shall give them fair consideration. My mind shall be open on the various questions. If the amendments are directly related to national defense, they will be agreeable to me.

I think I should say that the Senator from Nebraska [Mr. NORRIS] has an amendment which is not related to national defense, but I do not mention it with a view to saying that I shall oppose it. All I shall say about it is that if that amendment can be acted upon without opening the doors to a great many others, it will be agreeable to me. The Senator from Nebraska has some special considerations which he intends to submit. He is not asking for a new authorization or a new project, but is simply asking that an old authorization for an altered project shall be renewed with a view to the alteration. I take it that statement is satisfactory to the Senator from Nebraska.

So I beg the Senate not to yield to the temptation which must be in the breasts of all of us, very reasonably, to say, "Here is the opportunity to come in with my flood-control project or my local river and harbor project and get it through while a national-defense measure is going through." I am taking the course which I suggest. In the old bill there were 11 North Carolina projects. They did not involve very much money—less than $2,000,000—but in this bill there are only 2 very small North Carolina projects, and the 2 together involve about $100,000. There are plenty of needed projects in North Carolina. This year we had one of the worst floods in the history of the State.

Demands are coming to me from the people of western North Carolina to bring about some flood-control legislation, but I am not putting it in this bill. I am hoping that we may have a first-class, scientific, and well-conceived flood-control bill next year.

A great many meritorious river and harbor projects went down in the veto of the bill in the present session. I know Senators would like to bring them forward; but I am asking Senators not to bring forward any projects unless they can show, by statements from the engineers, the President, the Navy, the Army, or the Coast Guard, that their projects are directly related to the national defense.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. VANDENBERG. I do not think the Senator can too forcefully emphasize the appeal he has just uttered. As he knows, I have opposed all the river and harbor bills which have come from the Commerce Committee during the past 2 years. There are about $400,000,000 worth of ambitious projects lurking in the cloak rooms. Each one has more or less of a reason for being—usually less. If this bill opens itself to a general reception of amendments, I know no reason why all Senators should not consider that the vehicle is available for the whole $400,000,000 worth, and we shall be right back where we started.

The bill which the Senator now presents is the first river and harbor bill in the past few years which I have supported, in spite of the fact that I come from an area which has a very intimate relation to harbor development. The Senator's bill is supported by the recommendations of the defense authority. I am sorry to say that the Senator's total reliance upon the Board of Rivers and Harbors Engineers is scarcely satisfactory to me, because, in the light of the record of the river and harbor engineers during the past 2 years, I am not able to assign 100-percent dependability to their judgment. However, in this instance the Senator's bill has the mark of essential national defense from the appropriate spokesmen for the Government with respect to every item in it.

We can pass that bill and it can be signed and become a law. If it is opened up to all the other amendments, and they start to accumulate in any such—I was about to say almost scandalous—degree, as has been true in regard to our previous river and harbor bills in the past 2 years, then the national defense itself will be the sufferer.

Mr. BAILEY. That is correct.

Mr. VANDENBERG. I join the Senator in his plea.

Mr. BAILEY. I am very grateful to the Senator from Michigan. I shall take my seat after commenting upon one remark he has made. At the rate we have been going in the matter of flood-control and river and harbor projects, we shall convince ourselves and the country that the Congress is incompetent to legislate in such matters.

In view of the experience we have had since I have been chairman of the Committee on Commerce, I have been thinking that we might make better progress, and that the progress would be more substantial, if we should constitute another board. I am opposed to all that sort of thing; but I have seriously thought of suggesting a Board of Internal Improvements, in order that we might avoid the temptation within ourselves to come in at a moment like this and put even a fairly meritorious project in the bill. It is not scientific. It loads down the legislation, and makes it unpopular. We have acquired a bad name in America for our river and harbor legislation. I see it repeatedly referred to in the newspapers as "pork barrel" legislation.

I wish to avoid that sort of thing. I wish to go forward, not only with this bill, but next year with a legitimate, well-conceived river and harbor bill. I hope to go forward next year with a well-conceived flood-control bill. Both are necessities. There is room for both. But for the present I beg Senators, if they have amendments—and I make an exception of the distinguished Senator from Nebraska—to confine themselves strictly to the national-defense relationship in this matter.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. BAILEY. I yield.

Mr. VANDENBERG. I do not think that appeal is quite definite enough, because nowadays everything is proposed in the interest of national defense.

Mr. BAILEY. I use the word "strictly." I should say "technically", as approved by the Army, the Navy, the Coast Guard, the engineers, or the Commander in Chief.

Mr. VANDENBERG. That is much better.

Mr. BAILEY. I yield the floor.

The PRESIDENT pro tempore. Let the Chair state the parliamentary situation.

Prior to the unanimous-consent agreement to consider the committee amendments first, an amendment was presented by the Senator from Massachusetts [Mr. WALSH] and stated. That amendment is now pending. It will have to be disposed of prior to the consideration of the committee amendments.

Mr. BAILEY. That is agreeable to me, if the Senator from Massachusetts wishes it.

The PRESIDENT pro tempore. The amendment offered by the Senator from Massachusetts will be stated.

The LEGISLATIVE CLERK. On page 2, between lines 20 and 21, it is proposed to insert the following:

Norfolk Harbor, Va.; House Document No. 683, Seventy-sixth Congress.

Mr. WALSH. Mr. President, in order to show the Senate that this amendment appears to come within the limitations and suggestions of the Senator from North Carolina, I should like to read a letter from the Chief of the Bureau of Yards and Docks of the Navy:

NAVY DEPARTMENT,
BUREAU OF YARDS AND DOCKS,
Washington, D. C., September, 24, 1940.

Hon. DAVID I. WALSH,
United States Senate.

MY DEAR SENATOR WALSH: It is my understanding that H. R. 9972 authorizing improvement of certain rivers and harbors in the interest of national defense will be brought up on the floor of the Senate within the next day or two.

We have been cooperating very closely with the War Department (office of the Chief of Engineers) in connection with this bill inasmuch as all of the projects therein are of vital interest to the Navy in connection with the national-defense program.

The Navy Department has just received an urgent letter from the commandant of the fifth naval district recommending that the project for providing additional anchorage area south of Craney Island in Norfolk Harbor be inserted in the subject bill.

This project which will provide two anchorage spaces, at an estimated cost of $182,000, south of Craney Island, which is the Naval Fuel Depot in Norfolk Harbor, is covered in detail in house document No. 683, Seventy-sixth Congress, third session. (See Chief of Engineers' letter of March 19, 1940, p. 2 and pars. 8, 11 (b), 14, and 50.)

The increasing importance of the Hampton Roads area due to its central strategic location and enlarged defense plans now underway make it necessary that additional anchorage areas be provided for naval craft. This area will be used for ships awaiting their turn to fuel at the Craney Island depot; as a sheltered harbor for the increasing small naval craft used for loading stores, making minor ship's force repairs, liberty parties, and for the relief of the already crowded condition of other anchorage areas and dock spaces at the navy yard and the naval operating base.

The anchorage situation in the Elizabeth River at Norfolk has been made more acute owing to the necessity of providing buoy moorings for the large number of destroyers which are now basing at the operating base. Ships of the fleet are using the Craney Island Depot for fueling purposes on a continually increasing scale. It is contemplated that this anchorage will now be used entirely for Naval craft rather than for barges, freighters, and other commercial ships as contemplated in the original project and report. The estimated cost of $182,000 would appear very reasonable in proportion to the benefits to be obtained from this project.

I would very much appreciate it if you could propose the following suggested amendment when this bill is brought up on the floor of the Senate:

"Amendment intended to be proposed by _____ to the bill (H. R. 9972) authorizing the improvement of certain rivers and harbors in the interest of the national defense, and for other purposes: On page 2, between lines 20 and 21, insert the following:

" 'Norfolk Harbor, Va., House Document No. 683, Seventy-sixth Congress.' "

Sincerely yours,

B. MOREELL, *Chief of Bureau.*

Let me add that anyone who has observed the conditions at Norfolk must be convinced, in my opinion, of the absolute importance and necessity of the harbor improvement.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. VANDENBERG. I assume the Senator is presenting this amendment in his capacity as chairman of the Naval Affairs Committee?

Mr. WALSH. I am. I have no personal interest in it whatever.

Mr. VANDENBERG. I should like to say to the Senator that his authority on that subject is far more satisfactory to me than almost any other that could be quoted.

Mr. WALSH. I thank the Senator.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from Massachusetts [Mr. WALSH].

The amendment was agreed to.

The PRESIDENT pro tempore. The clerk will state the committee amendments.

The first amendment of the Committee on Commerce was on page 2, after line 10, to strike out:

Thames River, Conn.; House Document No. 367, Seventy-sixth Congress.

The amendment was agreed to.

The next amendment was, on page 3, line 16, after the name "California", to strike out "seaplane base and related works in accordance with the plan recommended in the report on file in the office, Chief of Engineers", and insert "House Document No. 844, Seventy-sixth Congress", so as to read:

San Diego Harbor, Calif.; House Document No. 844, Seventy-sixth Congress.

The amendment was agreed to.

The next amendment was, on page 3, line 20, after the name "California", to strike out "improvement in accordance with the plan recommended in the report on file in the office, Chief of Engineers", and insert, "House Document No. 843, Seventy-sixth Congress, and in accordance with plans developed in conjunction with the Navy Department for modifying the alinement and increasing the length of the breakwater to approximately 21,000 feet", so as to read:

Los Angeles and Long Beach Harbors, Calif.; House Document No. 843, Seventy-sixth Congress, and in accordance with plans developed in conjunction with the Navy Department for modifying the alinement and increasing the length of the breakwater to approximately 21,000 feet.

The amendment was agreed to.

The PRESIDENT pro tempore. That completes the committee amendments.

Mr. NORRIS. Mr. President, as the Senator from North Carolina [Mr. BAILEY] has already said, I have an amendment which I have talked over with him at some length, and which I wish now to present.

Let me say, Mr. President, I am in full accord with what the Senator from North Carolina has said, and I am willing to be judged by that rule unless my amendment is an exception, as it probably is, and does not interfere in the least with the idea of constructing or providing for the construction only of defense projects. Under a preceding River and Harbor Act and in two different statutes the Board of Engineers were authorized to survey the Republican River in Nebraska and Kansas and also in Colorado, for the purpose of constructing flood-control reservoirs and making a survey of the large number of proposed projects on the Republican River and its tributaries, which would safeguard the Republican River and the Republican River Valley from damage by floods.

In 1935 that valley suffered a flood that was beyond anything ever known in the history of that section, and which was comparable to some of the great floods that have done untold damage elsewhere.

Prior to the survey of these proposed projects on the Republican River and its tributaries the Board of Engineers had recommended, for flood-control purposes, a dam on the lower Republican River in Kansas; but in the further survey of the Republican River they reported adversely on all the projects except one, and that was the construction of a dam known in their report as the Harlan County Dam, which is near the line of Harlan County, on the Republican River in Nebraska. A prior dam located at Milford, Kans., lower down on the Republican River, already approved, was reconsidered by the Board of Engineers, and considered in connection with the proposed dam farther up on the Republican River, with the result that the Board of Engineers recommended the building of the Harlan County Dam and not the building of the Milford Dam. In other words, they found that the Harlan County Dam would take the place of the Milford Dam, and so they located the dam then in Harlan County. Therefore, in reality, they sought to move the dam from Milford, Kans., to Harlan County, Nebr. I think all the people residing in the valley of the Republican River, both in Nebraska and Kansas, have approved this change.

The engineers thought it was a better location for a flood-control project; that it would perform the same office the Milford Dam would perform, and, in addition to that, by locating the dam farther up the river, it would not only give the same flood-control advantage but enable them to use the controlled water for irrigation for a distance of 75 or a hundred miles along the Republican River Valley. The people residing in that section are in the midst of a drought which has afflicted them for the last 6 years. It is as beautiful a section as can be found outdoors, and as fertile as any on the Nile, but no crops have been raised because of the drought.

It was the idea of the engineers that by relocating it the dam would retain the full value for flood-control purposes and enable the owners of the land in the Republican Valley both in Nebraska and in Kansas to irrigate their land from the controlled waters.

The act under which the Milford Dam in Kansas was recommended by the Board of Engineers contained the usual provision that they could modify or make changes as they saw fit. I concluded that their modification locating the dam at the Harlan County line was in accordance with what the law gave them the right to do, and that no further authorization would be needed. I took up the matter with the chairman of the committee and he shared with me that view. I concluded there would not be any necessity for offering an amendment to this bill. But I had the legislative counsel take it up with the Board of Engineers, and they sent me a memorandum expressing the view that the project was not in condition for an appropriation, and that, at least, raised grave doubt in my mind whether an appropriation would lie under the authorization previously provided.

The amendment I offer would do nothing else than simply, if it were possible, to move the dam from one place to another. That is the only effect it would have. I offer the amendment and ask that it be stated.

The PRESIDENT pro tempore. The amendment will be stated.

The LEGISLATIVE CLERK. At the end of the bill it is proposed to insert the following new section:

SEC. 5. In addition to previous authorizations, there are hereby authorized to be appropriated for the prosecution of the comprehensive plan approved in the act of June 28, 1938, for the Missouri River Basin, such sums as may be necessary for the construction of a dam and reservoir on the Republican River at the Harlan County site, in accordance with House Document No. 842, Seventy-sixth Congress.

Mr. OVERTON and Mr. KING addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Nebraska yield, and, if so, to whom?

Mr. NORRIS. I yield first to the Senator from Louisiana, who rose first.

Mr. OVERTON. Mr. President, as I understand this project and the explanation made by the Senator from Nebraska, the main, if not exclusive, purpose is flood control, but it has the incidental feature that it may be used also for irrigation purposes.

Mr. NORRIS. That is correct.

Mr. OVERTON. But the main argument in support of it is that it would be of value as a flood-control project. Am I correct in that?

Mr. NORRIS. The Senator is entirely correct.

Mr. OVERTON. I desire to make the observation, Mr. President, in addition to what the able Senator from North Carolina in charge of the bill has said, that the Committee on Commerce of the Senate, while it may not have adopted the policy, has, at least, undertaken to follow the policy of not approving flood-control projects in rivers and harbors bills.

The reason for that, I think, is well-grounded. In the House there is a committee which considers river and harbor projects exclusively—that is, for navigation purposes—and in the House there is also a Flood Control Committee, which considers flood-control projects exclusively. Therefore, when a project is either exclusively a flood-control project or mainly a flood-control project, it is one which ought to be considered by the Food Control Committee of the House. When the Commerce Committee adds a flood-control project to a river and harbor bill it excludes any consideration of the policy by the Flood Control Committee of the House. So, out of regard for the Flood Control Committee of the House, we have undertaken not to include in the river and harbor projects any flood-control project.

Mr. NORRIS. This amendment does not propose a new project. It means a reauthorization, because the engineers have substituted the Harlan County Dam for the dam lower down the river. It is not a new project. There is nothing new in it.

Mr. OVERTON. It is a relocation of the project?

Mr. NORRIS. That is all; and, personally, I very much doubt whether it is necessary. I want to be frank with the Senate, but I do not want to be confronted later on with a technical objection when it comes to an appropriation, and have it said that there is no authorization for it. That is all I have in view.

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. NORRIS. Yes.

Mr. BAILEY. The Senator is not asking for an increase in the total authorization, as I understand.

Mr. NORRIS. No.

Mr. BAILEY. He is simply asking for the transfer of an authorization heretofore made to a dam on the same river higher up in lieu of the dam which is to be abandoned.

Mr. NORRIS. That is correct.

Mr. BAILEY. I think that is the case.

Mr. NORRIS. It is really for the purpose of meeting a technical objection.

Mr. VANDENBERG. And it does not increase the total cost of the project by a nickel.

Mr. NORRIS. No.

Mr. KING. Mr. President——

Mr. NORRIS. I now yield to the Senator from Utah.

Mr. KING. The question just propounded by the Senator from Michigan was one which I had in my mind. I was wondering whether or not, by this change, a larger authorization would be required and a larger appropriation ultimately made.

Mr. NORRIS. Oh, no. This appropriation, as I understand, will come out of the appropriation made for the Missouri River. This river is a tributary of the Missouri. That project was authorized in 1938, I think, and appropriations have been made for it. There is now an outstanding appropriation of $9,000,000 for the improvement of that river, but, of course, it includes a vast amount of territory. The Board of Engineers decide which project is the most worthy, and take the projects in the order in which, in their judgment, they ought to be taken.

I am informed by a memorandum from the Board of Engineers that this particular dam is the next one they had in view. It is a very important flood-control project. More than that, it means something to the people who have settled in the Republican River Valley for the past 50 years, and made it a garden spot until during the past 6 or 7 years, when they have been dried up every year with a drought. It will bring relief to a people who are on the verge of being driven out of the country, of starving to death. They have been hanging on there as long as they possibly can, it seems to me; and they will be able to use for irrigation the water which will be stored, and make a garden out of what is now a desert.

Mr. KING. Mr. President——

Mr. NORRIS. I yield.

Mr. KING. Some time ago—perhaps a year ago—a lawyer who had made some investigation of these projects, in connection with the development of the vast area to which the Senator has referred, indicated to me that he was fearful that there would be protracted litigation growing out of conflicts as to priority of appropriation, and that perhaps some of the upper reaches of the streams—and some of them, as I was advised, had their headwaters in other States than Nebraska—would make claims to this water, and if those claims were sustained the project to which the Senator refers would be materially injured; and, of course, such action would give rise to very serious litigation. I am asking the Senator for information about the matter.

Mr. NORRIS. I live in this part of the country. I live on the Republican River. I have spent my mature life, from the time I was a young man, in the Republican River Basin, and I still live there. I will say to the Senator that so far as I know—and I think I know—no question of priority of right to irrigation is involved in this project. When this improvement came there was a great deal of dissatisfaction on the part of a number of persons who live right where I have lived all my life over the fact that all these other projects had been turned down by the engineers. It was heartbreaking to me, but I accepted it. While I live in the territory where I have always lived, above the area that will be benefited by this dam, nevertheless, as hard as it is to see all these projects turned down by the engineers, I cannot put myself in the attitude of opposing a project farther down which will be beneficial, and which, as far as flood-control value is concerned, I must admit has a greater value than any on the Republican River, and the people down there are suffering in the same way. Irrigation is needed in that part of the country just as much as it is needed farther up, in my part of the country.

Aside from the technicalities concerning this matter—I do not want to take up time in discussing it—if I had the ability I could paint a picture here that would reach the heart of every listener. Those people have gone into that area and raised families. Now they are old. Their children are now occupying the farms. They have seen the days of prosperity, when they raised rich crops on this soil. They have seen prosperity disappear. They have seen the region go into decay, all because of the lack of rain. This project will be a godsend to a large portion of those people who live below the dam. All of the few irrigation projects there are, I think, without exception, above this dam. They are not affected by it in any way. I will say to the Senator from Utah that I do not think there is a possibility of any litigation affecting the priority of water rights.

Mr. OVERTON. Mr. President, will the Senator further yield?

Mr. NORRIS. I yield to the Senator from Louisiana.

Mr. OVERTON. If I correctly understand the amendment offered by the Senator from Nebraska, it does not increase the authorization or the amount to be expended.

Mr. NORRIS. No.

Mr. OVERTON. And it has been recommended by the Chief of Engineers.

Mr. NORRIS. Yes; this dam is recommended by the Chief of Engineers, all the way down the line to the local engineer.

Mr. OVERTON. The change in the location of the dam has been recommended by the Chief of Engineers?

Mr. NORRIS. Yes; in a report, I think in House Document 842, the change of location has been recognized.

Mr. OVERTON. The reason why I am careful about the matter is that I assume that the constituents of practically every Senator on the floor are desirous of having amendments made to this bill. Louisiana wants amendments made to the bill. I shall not offer any of the amendments, under the suggestion made by the chairman of our committee and by the committee, and under the recommendation made by the President; but I think there can be a departure from the rule, as in the case of the amendment offered by the Senator from Nebraska, when there is no increase in the authorization, and when there is merely a change in the location of a reservoir, and it has been recommended by the Chief of Engineers. I think an exception can be made in such a case; and therefore I shall support the Senator's amendment.

The PRESIDING OFFICER (Mr. GURNEY in the chair). The question is on agreeing to the amendment offered by the Senator from Nebraska [Mr. NORRIS].

The amendment was agreed to.

Mr. MALONEY. Mr. President, I offer the amendment, which is on the desk, and ask that it be read.

The PRESIDING OFFICER. The amendment offered by the Senator from Connecticut will be stated.

The CHIEF CLERK. On page 2, between lines 12 and 13, it is proposed to insert:

East Hartford, Conn.; House Document No. 653, Seventy-sixth Congress.

Mr. MALONEY. Mr. President, I am not sure that this particular amendment falls within the objectionable category referred to by the distinguished chairman of the committee, but I know very definitely that it falls within the category of the amendment just adopted, presented by the able Senator from Nebraska [Mr. NORRIS].

This amendment does not cover a new project. It is a project heretofore approved by the Army engineers, by committees of the House and the Senate, and in a separate bill has already passed the Senate. The amendment provides a reauthorization for a project approved a long time ago, to construct dikes and other protective works at East Hartford, Conn.

A reauthorization is probably necessary, and I find myself in exactly the position taken by the Senator from Nebraska, because in the proposal covered by my amendment there was a change in the plans. During the course of an investigation the Army engineers and others felt that greater protection could be afforded to this important industrial area by a change, and it is only because of that change that this authorization is probably now necessary.

I should like to point out, if I may, that in the bill under consideration one of the committee amendments struck out a project in my State, a project which I think is extremely important; but, because I am in complete sympathy with the high purposes of the committee——

Mr. BAILEY. Mr. President, will the Senator yield?

Mr. MALONEY. I yield.

Mr. BAILEY. That was stricken out because the work was going on. It is not destroying the project.

Mr. MALONEY. Not completely, in any event; the work is going on; but what I started to say was, that I am so completely in sympathy with the purposes and aims of our able chairman, and with the purposes of the Committee on Commerce, that I would make no attempt to resist that amendment.

But I would be derelict in my duty as a Senator, as well as a representative of the State of Connecticut, if I did not make every possible effort to bring about the adoption of the amendment which I have now offered, and I beg Senators to hear what I have to say in this respect.

Mr. VANDENBERG. Mr. President, will the Senator yield for one question?

Mr. MALONEY. I yield.

Mr. VANDENBERG. The Senator says his amendment falls in the same category with the amendment of the Senator from Nebraska [Mr. NORRIS], which the Senator from North Carolina has accepted. Does he mean by that statement that his amendment does not increase the total appropriations or authorizations carried in the bill?

Mr. MALONEY. I am not definitely sure. I think there is probably involved a very slight additional cost. There has been a change in plans. I am not absolutely certain, but I think that there would be an additional cost of $249,000. This whole project would cost approximately $1,600,000, and I am about to explain, as briefly as I can, the purposes impelling me to offer the amendment, and to urge, as seriously and sincerely as I can, that it be adopted, because it is extremely important.

Mr. KING. Mr. President, will the Senator yield?

Mr. MALONEY. I yield.

Mr. KING. During his explanation of the merits of this case, may I inquire of the Senator whether or not the situation is not such that the State itself, or the municipality, should have undertaken the project, or at least made some contribution toward its development? I hope the Senator will pardon me, but I may say that I made investigation of every river and harbor project from the days of Washington down to about 5 years ago. I investigated every single one of them, examining hundreds and hundreds of reports and thousands of pages of testimony, and I discovered that a very large number of the projects lack merit, and a very large number of them should have been constructed by local communities, by counties, by cities, or by States. I was wondering whether this project was one which should receive some aid in its construction from the county, or the city, or the State.

Mr. MALONEY. Mr. President, in reply to the very able Senator from Utah, I can only say that the particular community involved has made such a contribution as the Congress and the community and those interested in this character of legislation feel it should have made. There has been some contribution on the part of the community.

I am concerned with this project because it is, in my judgment, as important to the national defense as any project under this bill could be. Located at East Hartford, Conn., is the plant of the Pratt & Whitney Aircraft Corporation, which, from the standpoint of national defense, is probably the most important of the manufacturing plants in our country; it is certainly one of the most important. It is contributing right now to the greatest need we have—the manufacture of airplanes, or airplane motors. At this factory there are employed at the present time approximately 18,000 men. Much additional construction is going on at the plant. So I presume that in the near future thousands more men will be employed at the Pratt & Whitney plant.

During the very serious floods affecting my State in 1936, and again in 1938, it was necessary to close the Pratt & Whitney Aircraft Corporation plant because the employees could not get to the factory, since their homes were under water, and there was no way for them to reach the plant excepting by boat or by plane. I am fearful that another flood, coming at an even more serious time than the present, might handicap our national defense to a disastrous extent.

The Army engineers, in reporting on my amendment to the Committee on Commerce, point to the importance of this project in connection with this plant.

My State is very much concerned, and the people in the neighborhood, for the sake of their own homes, are greatly concerned; but that is not all that prompts me to make this appeal. I urge the adoption of the amendment because it is, in my judgment, extremely vital to the national defense. I doubt whether there is another such project in the bill, or a project which might be presented, that is so important as this one.

I am very hopeful that, for the reasons I have stated, the Committee and the Senate will approve this tremendously important amendment, which the Senate has previously adopted in the form of a bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Connecticut [Mr. MALONEY].

The amendment was agreed to.

Mr. SHEPPARD. Mr. President, I offer an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 3, between lines 9 and 10, it is proposed to insert the following:

Sabine-Neches Waterway at Orange, Tex., in accordance with report on file in the office of the Chief of Engineers.

Mr. SHEPPARD. Mr. President, since the bill was reported the Navy Department has awarded a contract to a plant at Orange, Tex., for the construction of twelve 2,100-ton destroyers. After awarding the contract the Navy certified to the Chief of Engineers for Rivers and Harbors that a channel would be necessary from the main channel to afford proper access to this plant manufacturing destroyers, certifying that it was necessary in the national defense.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas [Mr. SHEPPARD].

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House insisted upon its amendments to the bill (S. 4107) to transfer the jurisdiction of the Arlington Farm, Virginia, to the jurisdictions of the War Department and the Department of the Interior, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. JONES of Texas, Mr. FULMER, and Mr. HOPE were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10412) to expedite the provision of housing in connection with national defense, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. LANHAM, Mr. CROWE, and Mr. HOLMES were appointed managers on the part of the House at the conference.

The message further announced that the House insisted upon its amendment to the bill (S. 4270) to promote and strengthen the national defense by suspending enforcement of certain civil liabilities of certain persons serving in the Military and Naval Establishments, including the Coast Guard, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two

Houses thereon, and that Mr. MAY, Mr. THOMASON, Mr. COSTELLO, Mr. ARENDS, and Mr. HARNESS were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 3437. An act for the relief of the Franco-American Construction Co.; and

S. 3920. An act to amend the Railroad Unemployment Insurance Act, approved June 25, 1938, as amended June 20, 1939, and for other purposes.

EXTENSION OF SUGAR ACT OF 1937

Mr. JOHNSON of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House bill 9654, the so-called sugar bill.

There being no objection, the Senate proceeded to consider the bill (H. R. 9654) to extend, for an additional year, the provisions of the Sugar Act of 1937 and the taxes with respect to sugar.

Mr. GEORGE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Davis	Johnson, Colo.	Shipstead
Andrews	Downey	King	Smathers
Ashurst	Ellender	McKellar	Stewart
Austin	George	Maloney	Thomas, Idaho
Bailey	Gerry	Mead	Thomas, Okla.
Bankhead	Gibson	Minton	Thomas, Utah
Barkley	Gillette	Murray	Townsend
Brown	Glass	Norris	Truman
Bulow	Green	O'Mahoney	Tydings
Burke	Guffey	Overton	Vandenberg
Byrnes	Gurney	Pepper	Van Nuys
Capper	Hale	Pittman	Wagner
Caraway	Harrison	Radcliffe	Walsh
Chavez	Hayden	Reed	Wheeler
Clark, Idaho	Herring	Russell	White
Clark, Mo.	Hill	Schwartz	Wiley
Connally	Holt	Schwellenbach	
Danaher	Johnson, Calif.	Sheppard	

The PRESIDING OFFICER. Seventy Senators having answered to their names, a quorum is present.

Mr. JOHNSON of Colorado. Mr. President, House bill 9654 extends for another year the provisions of the Sugar Act of 1937, and it also extends for another year the taxes levied with respect to sugar. These taxes, under existing law, would expire on June 30, 1941. Unless this proposed legislation be enacted, the quota provisions and conditional payment provisions of the 1937 act will expire on December 31, 1940. The bill extends these provisions for 1 year. The bill also restores the limitations on direct-consumption sugar coming from Puerto Rico and Hawaii for 1 year, since these provisions expired on March 1, 1940. The bill also authorizes the appropriation of amounts equal to the taxes on the sugar coming from the Philippines to be used to finance the program of economic adjustment in the Philippines. Under present law no payments can be made for these purposes after June 30, 1941.

Mr. President, as every Senator knows, the sugar question is involved and complicated. Many Senators desired to change some of the provisions in the sugar law. The Senate committee considering the matter reached the conclusion that it would be better for everyone concerned if we merely extended the 1937 act for another year, and then, when Congress returns next year, to try and work out a sugar bill which might meet the objections made and make the adjustments which those representing the different phases of the sugar industry are demanding.

Mr. VANDENBERG. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. VANDENBERG. In the Senator's time I should like to make it plain that the statement which he has just made authentically describes the state of mind of many of us from the midcontinent sugar-beet area. We are not accepting this continuing legislation through any degree of satisfaction or any notion that it adequately meets what we believe to be the essential changes in the sugar-control arrangements and administration. We are accepting it solely because it appears to be the only alternative open if there is to be any sugar program at all commencing New Year's Day. Therefore the statement which the Senator from Colorado has just made, it seems to me, is very important so far as the record is concerned, lest there be any misunderstanding with respect to the support which many of us give to this continuing legislation; and I do give it support under the circumstances as indicated. The support we give is predicated upon the fact that there is no time to do an adequate job at the moment, but that we expect an adequate job to be done in 1941.

Mr. JOHNSON of Colorado. Mr. President, I thank the Senator from Michigan for his statement. I think the same statement could be made by representatives of every other part of the sugar industry. The fact that none of the sugar people are satisfied rather indicates that this is a pretty good compromise. I know that the continental sugarcane section is not satisfied. The Puerto Rico and Hawaiian interests are not satisfied. The Philippine sugar interests are not satisfied. No one seems to be satisfied with the measure, and therefore I have reached the conclusion that it is a fairly good compromise.

Mr. ADAMS. Mr. President, I wish to make an inquiry of my colleague.

Mr. JOHNSON of Colorado. I yield.

Mr. ADAMS. If the bill should not pass, it would leave the tax upon the sugar industry as it now stands, without the benefit payments?

Mr. JOHNSON of Colorado. That is correct.

Mr. ADAMS. In other words, the industry would be forced to stand the tax without receiving any benefit payments in compensation?

Mr. JOHNSON of Colorado. That is correct.

Mr. ADAMS. In addition, we have had a reduction in the tariff on incoming sugar through the reciprocal-trade agreements.

Mr. JOHNSON of Colorado. That is also true. Of course, the tax which is now in effect would expire——

Mr. ADAMS. The point I wish to make is that the sugar situation in this country is now worse off by a reduction of 60 cents a hundred by reason of the reciprocal-trade agreements. If the bill should not pass, the domestic sugar industry would further suffer the detriment of a 50-cent tax, with no benefit payments.

Mr. JOHNSON of Colorado. The Senator has stated the case very well.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I yield.

Mr. ELLENDER. Has the Senator any figures to show the amount of sugar which might come into this country if the quota law now on the statute books should lapse?

Mr. JOHNSON of Colorado. I have no figures. Any statement I might make would be an estimate at best, and would be entirely dependent upon world conditions. I do not think anyone could answer that question.

Mr. ELLENDER. World conditions during the second world war differ from the world conditions that prevailed during the first World War and——

Mr. JOHNSON of Colorado. Yes. Of course, the blockade affects the situation.

Mr. ELLENDER. That is what I desire to point out. Because of said blockade sugar has accumulated in South American countries—Cuba, the Philippine Islands, Hawaii, and Puerto Rico—in excess of 2,000,000 tons; and if the quota were not retained, all that excess sugar would be dumped on the American market, thereby considerably affecting our prices.

Mr. JOHNSON of Colorado. The Senator has made an accurate statement of the situation. Of course, if the act is not continued, all that sugar will come in. I understand that the price of sugar in New York today, with no tariff, is about $1.65. Of course, that would completely put out of business all the sugar industry of continental United States. All our domestic-sugar industry would go.

Mr. THOMAS of Idaho. Mr. President, it is not my purpose to detain the Senate for any great length of time on this important measure. First, I wish to compliment the Senators from the West and the South who have spent so much time trying to work out a program which would help the sugar industry. I want it distinctly understood that I am not at all satisfied with the present arrangement; but I agree with the Senator from Colorado [Mr. JOHNSON] that probably this is the best solution which could be reached at this time, and it should be accepted, because it is of tremendous importance that this proposed legislation should be passed before this session of Congress ends. It is important that our sugar industry know what to depend upon for at least a short time.

In this connection I have the feeling that the Department of Agriculture has put into effect every obstacle it could think of in order to destroy the domestic-sugar industry, especially the sugar-beet industry of the West.

There can be no doubt whatever of the administration's intentions with reference to the domestic-sugar industry. Mr. Wallace, as Secretary of Agriculture, stated the administration's views quite bluntly at the time the first Sugar Act was being considered by Congress:

> The sugar-beet industry, as measured from the standpoint of free-world competition, is inefficient.

It was left to Mr. A. J. S. Weaver, then head of the Sugar and Rice Division of the Agricultural Adjustment Administration, to explain in detail the administration's views. I want to quote briefly here an exchange between Congressman HOPE and Mr. Weaver before the House Committee on Agriculture in 1934.

> Mr. WEAVER. * * * In this emergency situation it is not possible to do everything at once; but, now speaking from the point of view of long-time policy, if further expansion is continued, the United States will be saddled, possibly forever, with a high-cost industry which is not a fair thing to contemplate for consumers.
>
> Mr. HOPE. Well, then, in other words the policy is to start in eliminating the industry before it gets any bigger. Am I correct in that assumption
>
> Mr. WEAVER. Yes; if you mean limiting the industry, I think that is a reasonable statement.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. THOMAS of Idaho. I prefer not to yield at this time.

I wish to point out how the administration has acted deliberately to cripple the domestic sugar industry. Under the present Sugar Act, and under the Jones-Costigan Act which preceded the present act, the American market is protected not by a tariff, but by quotas which are adjusted at the discretion of the Department of Agriculture. The tariff on Cuban sugar, which was formerly 2 cents a pound, has been reduced to 0.09 cent a pound—considerably less than the difference in the cost of production between the United States and Cuba.

The law provides that Cuba shall be given a substantially larger share of the American market than the entire western sugar-beet area is permitted to supply. The western area is limited to less than 25 percent of the American market, and both the sugar-beet section and the southern cane growers together are permitted to supply less than 30 percent of the domestic market. This in itself, even were the act administered with the interests of the American grower in mind, is unfair. It is unfair to the sugar growers, and it is unfair to every other farmer in the United States. There are thousands of additional acres in the West on which sugar-beets could be profitably grown if the Government would permit. Today, these acres, which should be producing sugar which can be profitably marketed, are producing crops of which we already have surpluses burdening the market and depressing prices.

However, if the Department of Agriculture continues to administer the act to depress the price of sugar, there will be no need to worry about acreage allotments. All domestic production will be destroyed. At present, the price has fallen so low that many growers are producing at an actual loss. They cannot and will not continue to do so for long.

Let me show how the policy of Secretary Wallace and the administration has acted to depress the price of sugar. Hardly had the present Sugar Act become law in 1937 when the Department of Agriculture fixed its estimate of American sugar consumption at 7,042,000 tons, an amount of sugar greater than has ever been consumed in the United States in any year. The effect was to bring in sugar surpluses which reduce prices.

This policy of fixing the estimates of production high enough to depress the price has been followed consistently. This year, because of the hostility of the administration to the domestic sugar industry, domestic growers are in a peculiarly difficult position.

In September 1939, supposedly because of the fear of rising prices due to war conditions, quotas were suspended by the President, and the tariff on Cuban sugar automatically was raised from 0.9 to 1.5 cents per pound, still half a cent per pound lower than the tariff which protected the American grower prior to the New Deal. Then, on December 27, 1939, the tariff was reduced to 0.9 cent per pound, 4 days before the 1940 quota went into effect on January 1, 1940. During this 4-day period, only a 0.9-cent tariff was in effect, and there were absolutely no quotas effective to protect the American market.

Someone had evidently tipped off the owners of the Cuban sugar industry, for during this 4-day period 284,000 short tons of sugar, valued at $11,000,000, which had been stored in bond in this country, were admitted at the 0.9-cent tariff and free from any quota restrictions. This amounted to 15 percent of the entire year's sugar imports, and it meant a loss to the Federal Treasury of about $3,500,000. The loss to the American sugar grower was much more serious than that.

As a result of this manipulation, we faced the present year with an inventory of sugar in the United States of approximately 900,000 tons, about 400,000 tons more than normal. The situation, inevitably, has been detrimental to the American sugar grower.

In August, as a concession to the American sugar producers, the quotas of imported sugar were reduced by 136,000 tons. This was not enough materially to remedy the situation or to improve the price of sugar.

Today the price of sugar is at very nearly the lowest point in history. In August it was, at 5.1 cents per pound, lower than before the first sugar act went into operation. Yet that is only part of the picture. Out of that price of 5.1 cents per pound comes a tax of 0.53 cent per pound.

When the sugar legislation was first before the Congress, Mr. A. J. S. Weaver, who was officially presenting administration views, spoke of the danger that the price of sugar, without legislation, would bring us back to last year's very low prices, of which and about which the beet producers and continental can producers complained, and rightfully complained.

The low price referred to, of which beet producers "rightfully complained," was 5.3 cents a pound, 0.2 cent per pound higher than the price during August 1940. Moreover, no tax was taken out of the 1933 low price. Deducting the tax, the return on sugar would be less than 4.6 cents per pound. If farmers "rightfully complained" in 1933, they are entitled to a mighty howl of protest today, since the condition which prevails in the sugar market is the result of deliberate manipulation by a Secretary of Agriculture and an administration whose announced desire it is to eliminate the domestic sugar producer.

As the situation stands today, sugar growers in the United States are permitted to supply only a fraction of the American market. That is the result of an unreasonable law. There is absolutely no justification, however, for the administration to use that law to depress prices to the point where farmers will be forced to abandon domestic production altogether.

Last year many American sugar-beet growers sold their crop at an absolute loss. This year, prospects are not improved. In fact, with lower prices of sugar, the return to farmers may be no better this year than last. This condition could be easily remedied by a further reduction of the import quotas, but this the Department of Agriculture refuses to do. The Department's refusal means another loss for farmers.

It is nothing short of a crime that the administration should use the Sugar Act—supposedly framed in the interests of the cane and sugar-beet farmers—to destroy the American sugar industry. Nevertheless, that is precisely what is happening today.

Mr. President, I ask to insert in the RECORD as a part of my remarks an article from the National Beet Grower of the issue of September 1940 under the heading "United States sugar prices drop to all-time low in world history."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the National Beet Grower of September 1940]

UNITED STATES SUGAR PRICES DROP TO ALL-TIME LOW IN WORLD HISTORY

Sugar, as you no doubt recall, was supposed to be a war baby, but during the week of August 12 the world price fell to the lowest point recorded since trading was instituted on the New York Coffee and Sugar Exchange.

This world price represents an international appraisal, through the medium of futures traded in New York, or what raw sugar is worth on the dock in Cuba. At the outbreak of the war it shot up on the assumption that much of Europe's sugar-beet crop would be ruined. For a while Cuban sugar commanded about $15 a ton. But Nazi conquest and the blockade have eliminated one customer after another, while British rationing has further reduced the market, and during the week of August 12 the price backed down to about $8 a ton.

Cuba is capable of producing pretty close to 6,000,000 tons of sugar a year but output for a long time has been held down to around 3,000,000 due to lack of sales outlets. Of that, the United States normally takes roughly two-thirds, and the United Kingdom is the second largest customer, taking about one-fifth.

If the United States could increase its takings of Cuban sugar, it might help to make up for the lost markets in Europe. However, the quota system in this country freezes the amount that the island is permitted to supply in order to protect domestic producers. The result is that buying interest in Cuba's surplus has dwindled almost to the vanishing point and a small amount of selling readily depresses the world market price.

The quota system sets the United States market on a plateau protected by the tariff of $1.87½ a hundredweight. (Cuba enjoys a preferential tariff of 90½.) Nevertheless, a decline in the world price exerts a distinctly negative influence on prices in this country. The result has been another outbreak of cutthroat competition among refiners, particularly in the South, in the last couple of months. In fact, prices quoted (after deduction of the processing tax of 53½ cents a hundredweight and 2 percent discount for cash) were lower than the all-time bottom in 1932—and Louisiana cane growers are wearing Willkie buttons.

Meanwhile, Congress is still wrangling over the sugar-quota system. The House passed the Cummings bill, which would extend the quota provisions, due to expire the end of the year, through 1941. In the Senate, where votes of the beet and cane sugar States weigh more heavily than in the lower Chamber, opposition still is apparent. With revenue matters to the fore, the Senate Finance Committee announced that it was postponing consideration of the bill for indefinite time.

The cane sugar-refining industry in continental United States has been up against its usual fight over the quotas of Hawaii and Puerto Rico. The islands, being part of the United States, insist they should be permitted to ship their entire quota in the form of refined sugar. This was headed off when the 1937 law was passed. Puerto Rico in 1939, for example, was given a total quota of 806,642 tons (March revision) of which only 126,033 was to be refined. Hawaii's total was 948,218 tons with only 29,616 to be in refined form.

This limitation on refined sugar expired the end of last February, and Puerto Rico since that time has been shipping much more than its usual allotment in the form of refined sugar. Whether or not this has been a factor in the weakness of the refined sugar market in this country is now a subject of lively argument in the trade.

The sugar bill, now awaiting a Senate vote, would reimpose the limitations on the amount of refined sugar which can come in from the islands. It would not, however, penalize Puerto Rico for current overshipments of refined sugar.

Mr. THOMAS of Idaho. Mr. President, I also ask unanimous consent to insert in the RECORD as part of my remarks a resolution adopted by the National Reclamation Association at its annual meeting at Great Falls, Mont.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

[Resolution adopted by the National Reclamation Association at its annual meeting at Great Falls, Mont.]

RESOLUTION NO. I—SUGAR-BEET EXPANSION

Whereas large areas of the West are dependent to a great extent on the maintenance and growth of the sugar-beet industry; and

Whereas the sugar-beet industry provides more field labor per acre unit than any other major crop produced and also provides more income for industrial labor in associated industries, such as railroads, coal mines, limerock quarries, and many manufacturing enterprises and is therefore far reaching in its possibilities; and

Whereas an orderly and sound expansion of beet plantings and processing as suitable land is developed is a reasonable and necessary condition precedent to the building up of this country and should be encouraged; and

Whereas American sugar-beet producers provide less than one-third of the requirements of our home market at the present time but could and should be supplying a major portion of its requirements to the economic advantage of the Nation; and

Whereas our Government should adhere to the principles of American markets for American producers; and

Whereas the present all-time low net price of sugar is insufficient to maintain the industry on a profitable basis: Now, therefore, be it

Resolved by this association, That the Congress of the United States is urged to provide through proper legislation for the progressive, orderly expansion of the production of beet sugar within the United States and to maintain the beet-sugar industry on a reasonable income basis by quota regulations and adequate tariffs on foreign sugar; and be it further

Resolved, That the secretary be directed to send a copy of this resolution to the Secretaries of Agriculture, Interior, and State, and to the Senate and House of Representatives of the United States and to each of the Senators and Representatives of Western States in Congress.

Mr. THOMAS of Idaho. I also ask unanimous consent to have printed in the RECORD a statement prepared by E. W. Rising, vice president of the Western Beet Growers Association.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT PREPARED BY E. W. RISING, VICE PRESIDENT OF THE WESTERN BEET GROWERS ASSOCIATION

Mr. Chairman, I am representing the Western Beet Growers Association, composed of farmers in beet-growing areas that desire substantial increases in their acreage allotments, also farmers in areas that are not growing beets because of acreage or marketing-quota restrictions.

We favor new legislation along the general lines of the 1937 Sugar Act, to replace the act which expires December 31, 1940, but with yearly increases in tonnage allotments to continental growers, and with a provision which will enable new growers and new factory areas to share in allotment of increases in tonnage.

We hold that the American market belongs first, to the American farmer, the American laborer, and the American businessman. We propose to discuss sugar legislation with these principles in mind.

RIGHT OF AMERICAN FARMER TO AMERICAN MARKET

The right of the American farmer to supply the American market to the full extent of his ability is so fundamental that it seems scarcely to need discussion. It has been recognized for generations in our tariff policies, and it has become a doctrine supported by every large farm organization in the United States. Until that right is fully recognized in sugar legislation there will be no permanent settlement of the sugar question.

Continental American farmers are now denied the fundamental right to grow sugar beets and sugarcane, American labor is discriminated against in favor of cheap labor in a foreign land, and American businessmen are prohibited from processing and marketing the products of American soil and American labor.

In order that we may explain our position on this subject, I am placing a table in the record, showing the percentages of sugar supplied from all sources, under provisions of 1937 Sugar Act, to consumers in continental United States.

QUOTA PROVISION SUGAR ACT OF 1937

Under the provisions of the 1937 Sugar Act, the sugar needed to meet the requirements of consumers in the continental United States is to be supplied approximately as follows:

	Percent
Domestic beet sugar	23.19
Mainland cane sugar	6.29
Total, continental allotment	29.48
Hawaii	14.04
Puerto Rico	11.94
Virgin Islands	.13
Total, American possessions allotment	26.11
Total, American allotment	55.59
Commonwealth of Philippines	15.41
Cuba	28.60
Foreign countries other than Cuba	.40
Total, foreign countries and Phillippines	44.41

There are three main sources of supply for the 6,682,670 short tons of sugar normally required to supply the continental market.

	Short tons	
First:		
Beet sugar, continental growers	1,549,711	
Cane sugar, continental growers	420,340	
		1,970,051

Short tons—Continued

Second: American possessions		1,744,845
Third:		
Philippines	1,029,799	
Cuba	1,911,244	
Foreign, other than Cuba	26,731	
		2,967,774
Total normal requirement		6,682,670

LEGISLATION REQUIRED IN INCREASING CONTINENTAL ALLOTMENTS

If the continental growers of sugar beets and cane are to be permitted to produce additional tonnage it follows that one of the other two main sources of supply must be given a smaller allotment.

It will not be our purpose to ask that the allotment for our island possessions be reduced, but we do not hesitate to say that we do feel that the allotment of more than 26 percent of the requirements for the continental market, in addition to guaranty of full home market, is very liberal, and that our possessions should not be given additional tonnage until the needs of the continental farmer are take care of in a fair manner.

Provision in the Independence Act for Philippines allowing 850,000 long tons, equivalent to 952,000 short tons, duty-free sugar until 1946, brings the discussion at this time to the question of whether we shall continue to look after the interests of Cuba, before we provide for the welfare and markets for the products of our American farmer and American labor.

BEET-SUGAR TONNAGE ALLOTMENTS REQUIRED BY PRESENT GROWERS

Under normal requirements the beet-sugar allotment is 1,549,711 short tons. For the year 1938 the production of beet sugar was 1,803,000 short tons. For the year 1939 the production of beet sugar was 1,750,000 short tons.

Figures given indicate that present growers of sugar beets are exceeding a normal quota by approximately 200,000 tons of sugar each year. There is, therefore, no opportunity for new growers or new areas to engage in growing of sugar beets until the domestic quota is materially increased.

Sugar beets are peculiarly adaptable to irrigated land. For more than a third of a century, the Federal Government has encouraged irrigation as a means of developing the arid lands of the West. Since 1902 it has advanced nearly $700,000,000 for construction of irrigation and related projects under the Federal reclamation policy.

Repayment of a quarter of a billion dollars in these advances is to a large extent dependent on the ability of water users to grow sugar beets and market them under the protection of American law. The future of a score of reclamation projects now in operation is to a large extent dependent on sugar beets. Others under construction will require a cash crop like sugar beets if settlers are to get a proper start and become self-sustaining.

In the light of the facts above mentioned, the Government has a direct responsibility for and interest in the maintenance of a stable agriculture in the irrigated areas of the West.

The Department of Agriculture has recognized sugar beets as a logical cash crop for irrigated lands. Its Farm Security Administration includes sugar beets in crop rotation plans for the irrigation farmers it finances.

I might also state that in selecting a row crop a farmer in irrigated areas is limited to a few items, such as beets, beans, corn, and potatoes, all of which with exception of beets are currently produced in quantities to supply domestic market.

Statement of increased sugar-beet acreage desired by 10 Western reclamation and Great Plains States (with supporting data)

Idaho: Boise and loger Snake River Valleys	45,000
Oregon: Additional acreage for Nyssa factory	5,000
Minnesota-North Dakota: Red River Valley, for new factories	75,000
Montana:	
Lower Yellowstone-Sidney-Fairview-Savage	2,000
Sun River-Pondera-Milk River	20,000
Buffalo Rapids-Forsythe-Tongue River-Kinsey	14,300
Broadwater-Townsend	12,000
Southwestern Montana-Missoula-Bitter Root	15,000
Hardin	4,000
North Dakota: Bufford-Trenton and Lewis and Clark project	2,400
Nebraska:	
North Loup-Middle Loup Public Power & Irrigation District	12,000
Central Nebraska Public Power & Irrigation District	29,000
Nevada:	
Humboldt District	7,000
Newlands project	10,000
South Dakota: Belle Fourche	3,500
Washington:	
In present areas	10,000
New areas, including Roza	10,000
Wyoming:	
Lovell Big Horn Basin	1,250
Greybull	14,000
Total	291,450

IDAHO

"Southwestern Idaho was one of the early beet sections of the United States, having a sugar factory in 1907. Our section was affected by the blight and finally ceased to grow beets. After the perfection of the new resistant seed a new start was made and in 1937 a factory was located at Nyssa, Oreg., to process beets grown in that section of Oregon, and in southwestern Idaho.

"We have over a half million acres of fine irrigated land in southwestern Idaho and along the Snake River in Oregon. We find that our section is well adapted to dairying and stock raising, but we need a good root crop for rotation with alfalfa and grain. Sugar beets have proven to be an ideal rotation crop, having long roots reaching down into the deep soil, and through the intensive cultivation required assisting in eradication of weeds. Our small-dairy farmers are ideal customers for the beet pulp from the processing plants."

OREGON

New factory at Nyssa, built in 1937, has not been allotted sufficient acreage for full operating capacity.

NEVADA

In April 1940, Senator McCARRAN stated in a letter to me:

"Nevada some years ago engaged in a prosperous endeavor of beet-sugar culture, even to the extent of establishing a factory at Fallon, Nev. It was, indeed, a profitable pursuit with much promise of increased production. Unfortunately, beet-sugar culture in Nevada was beset with wilt, caused by the white fly sucking juice from the foliage.

"In 1938 the Spreckles Sugar Co. cooperated with the farmers in Pershing County, Nev., in planting several experimental patches using a newly developed alkali tolerant plant particularly adaptable to that climate. Again in 1939 with increased acreage more extensive tests on approximately 1,800 acres were carried on. These tests have conclusively shown that sugar beets of excellent quality can be successfully and profitably grown in Nevada.

"There is another important factor to be considered. By using sugar beets as a rotation crop alfalfa blight has been eliminated in those areas fortunate enough to receive beet-sugar acreage. You can readily appreciate what this means to a livestock State somewhat reliant on alfalfa as a foliage crop. In my judgment, by rotating these two crops, not only would the livestock industry be greatly benefited but the farmer would be guaranteed a cash-income crop."

MINNESOTA-NORTH DAKOTA

The Minnesota-North Dakota Sugar Beet Development Association state that the area represented by the association in the valley of the Red River has well over 200,000 acres of cultivated land adaptable to sugar-beet culture.

They have one processing plant at present with a quota of 26,500 acres. The plant manager had on file for the 1940 growing season well over 40,000 acres in applications. Additional farmers in the valley had indicated desire to plant another 60,000 acres, making a total demand available for 1941 planting of 100,000 acres.

Gov. John Moses, of North Dakota, under date of April 8, 1940, addressed a letter to the chairman of the Agricultural Committee of the House of Representatives, in which he stated:

"A considerable number of farmers of the more progressive type in the Red River Valley, in both North Dakota and Minnesota, are actively asserting their interest in the production of sugar beets. They have formed the Minnesota-Dakota Sugar Beet Development Association, with a present membership of over 1,200 which is expected to grow to well over 2,000.

"Sugar beets have been grown in North Dakota for many years. For the past several years they have been and are now the most successful crop grown in the Red River Valley, which is far-famed for its fertile soils, and in other parts of the State.

"In addition to the market value of the beets for sugar production, our farmers have an equal and increasing interest in the use of beet byproducts for livestock feeding. The tops, pulp, and crude molasses are valuable auxiliary feeds for lambs and sheep, dairy cattle, and beef cattle especially, and to some extent for other livestock. The use of these byproducts has become increasingly popular, and the demand exceeds the supply.

"Our farmers are emphatic adherents to the American principle that the American market belongs to Americans. They are irreconcilable to regulatory restrictions on the production of an important food commodity when over 70 percent of the domestic consumption is being imported.

"Sugar is the only essential agricultural commodity that we do not produce in quantity sufficient to meet normal domestic requirements. Our dependence on offshore supplies is hazardous in the event of war, as was forcefully demonstrated twenty-odd years ago when the price was forced up to 500 percent of normal."

MONTANA

The Southeastern Montana Counties Association, under date of March 23, 1940, wrote Congressman JAMES F. O'CONNOR in regard to the need of additional acreage for sugar beets. The following statements are made in the letter referred to:

"Mr. CUMMINGS' bill seems to have quite overlooked areas that have recently been brought under irrigation and, if that is really done, we in the Dust Bowl, or at least on the edge of it, might as well join the "Okies," which, of course, the people of Montana are not inclined to do.

"Nobody is being fooled by the ban being lifted on acreage, because unless the parity price is maintained and the processors given an opportunity to dispose of the refined sugar, they are not going to venture any capital in a new refinery.

"Our soil here is such that it is essential that we have a rotation of crops and there is no crop that does the soil so much good as a

root crop. With our open range back of all these potential beet areas that provide the best feed in the world during the summertime, why shouldn't our stockmen be able to bring their stock in and feed it out on these beet fields.

"The beet growers and the stockmen, members of this association, have in the last 2 weeks had seven meetings, and this letter is being written at their specific instruction and direction, and they are in hopes that you will be able to get this picture across to Congress. If you do, they are satisfied that the great drought disaster of 1934 and 1936 and such a calamity as the stockmen experienced in this area will never be experienced again, and a large number of people who are now on relief will be able to rehabilitate themselves and once again become self-respecting citizens."

From the Broadwater County Beet Growers Association of Townsend, Mont., under date of March 22, 1940, I have the following:

"During the past 10 years, sugar beets have been satisfactorily grown in all parts of this area, thus proving the adaptability of our soils and the fact that our climate and the altitude permit the satisfactory production of high-quality sugar beets. A new sugar factory located in this valley would, in turn, eliminate high freight rates and increase the agricultural wealth of the community by encouraging the development of livestock feeding, rotation of crops, and assist in building up the fertility of our soils. It should be further pointed out that the entire area is surrounded by range lands producing high-quality feeder livestock, including both sheep and cattle, which are now moving to other areas to be fattened for the market. The Federal Government in building the Broadwater-Missouri project assumed that the production of sugar beets would provide the cash crop retnurn required in order that we might repay the obligation which we owe to the Public Works Administration."

The Sun River and Pondera Beet Growers Association state:

"Sufficient sugar-beet acreage in the counties of Cascade, Teton, and Pondera, in Montana, to support a sugar factory is urgently needed. There are 200,000 acres of irrigated land in these three counties, two-thirds of which are suitable for sugar-beet production. Over 10,000 acres were signed up by the beet-growers' associations in 1938 to be planted in 1939 if a sugar factory were built, and at the present time growers would pledge 20,000 acres for 1941 if a factory were definitely promised.

"The effect of sugar-beet production on crop values of the Federal reclamation projects in Montana is shown by the fact that in 1937 the Huntley projects in Yellowstone County with 25 percent of its acreage in beets had an average crop value of $43.23 per acre; whereas the Sun River project with less than 1 percent of its cultivated area in sugar beets had an average crop value of $13.21 per acre.

"To summarize: What we want and very badly need is a new sugar factory situated somewhere in the Cascade-Teton-Pondera area so that at least an additional 15,000 acres of beets can be grown. We have the land, the water; have demonstrated that beets are entirely successful; and only need a factory, which we can get if proper legislation is passed."

The Sidney Water Users Association ask for an allotment of 1,000 acres for growing sugar beets and state:

"It is necessary to grow beets because the entire country toward the Little Missouri River is a range country, and livestock feeding is dependent on sugar-beet industry and the by-products therefrom for feeding livestock."

Statements showing a demand for sugar-beet acreage have also been filed on behalf of farmers in the Lewistown, Forsyth, and Hardin, Montana areas.

WYOMING

Congressman HORTON, of Wyoming, under date of April 10, 1940, advised me that the Lovell, Wyo., beet-sugar factory, should have an allotment that would permit the contracting of approximately 1,250 acres of beets in excess of acreage harvested for 1939.

Congressman HORTON also stated that with the completion of the Sunshine Dam on the Greybull River, that valley will need an additional acreage allotment for beets; that the soil in this area is identical with the Big Horn Basin.

NEBRASKA

Mr. H. C. James, of Arcadia, Nebr., states from his contacts and management:

"It is extremely necessary that these two valleys be provided with cash crops, and the ability to grow sugar beets would provide a very desirable cash crop. Thus, we are strenuously supporting the efforts now being made to change the quotas to permit the growing of gradually increasing acreage in the Continental United States, in the hope that a sugar factory can ultimately be established for the North and Middle Loup Valleys."

From the Central Nebraska Public Power and Irrigation District of Hastings, Nebr., we have the statement that:

"Nebraska is at the crossroads in her agricultural life. The agricultural methods of the past have clearly demonstrated that only through irrigation can a major portion of Nebraska's farms be salvaged from a return to grazing land and the original prairie.

"Nebraska now has just completed extensive irrigation improvements. Federal funds in the amount of over $50,000,000 have been invested in Nebraska in the past 6 years for multiple-purpose projects whose primary aim is to bring irrigation water to more than 350,000 acres of land. This is in addition to the expenditure of millions of dollars from other public and private sources for the same objective.

"This brings about a paradoxical situation. On one hand we find Federal funds being allotted the State in an attempt to bolster a failing agriculture, and on the other hand the most important irrigation crop, sugar beets, is placed under such stringent Federal regulation that it will absolutely prevent any sugar-beet production in the new areas."

WASHINGTON

Congressman KNUTE HILL stated in a letter to me dated April 10, 1940:

"As regards the question of expanding the industry in the State of Washington, Commissioner Page, of the Bureau of Reclamation, has written: 'The success of sugar-beet production on the Yakima project warrants further expansion of the area, which could well support a second factory with an initial allotment of 10,000 acres.'

"You may know that the Roza project is nearing completion, and in this connection I believe future plans should include from 10,000 to 15,000 acres for sugar beets in this area. The Reclamation Bureau is studying the subject of crops best suited for the Grand Coulee project."

CUBA AN AMERICAN MARKET

It is argued that the size of the beet-sugar industry in the United States should be limited because an expansion means a loss of the Cuban market for the corn-hog farmer of the Mississippi Valley. If more sugar is grown in the United States, so the argument runs, less will be needed from Cuba, and if Cuba's income from sugar sold the United States is reduced, she cannot buy Iowa's pork and lard.

In view of the above argument, Congress is expected to see a conflict between the need of maintaining a market for the Middle West and the market needed for the beet-producing States of the Northwest.

In fact, no conflict exists because the beet-producing States are large importers of Iowa's corn, pork, hams, and bacon. On the other hand, Cuba's imports of corn and hog products no longer look impressive.

The following figures are taken from page 87 of House hearings and were originally supplied by the United States Bureau of Foreign and Domestic Commerce:

	1926	1937
Cuban imports:		
Salt pork	$5,432,675	$506,131
Hams, cured or smoked	1,041,625	128,575
Corned beef	55,757	115
Sausages, canned	750,788	2,173
Corn	2,390,172	6,974

A great deal has been said regarding the large quantity of lard we sell Cuba; however, Senator THOMAS of Idaho in his speech before the Senate on July 29, 1940, stated that for 1939 we sold Cuba lard to the value of $3,976,000 while our purchases of sugar amounted to $72,772,000.

Statement made by the chairman of Cuban Committee, National Foreign Trade Council, at House hearings, page 174 of the record, shows that Cuba purchases from the United States rice, wheat flour, lumber, petroleum, fruits and vegetables, chemicals, iron, steel, paper, textiles, automobiles, machinery, hardware, and glass in moderate quantities. For all of these products the beet-producing States offer a much larger market.

Most recent figures from United States Tariff Commission indicate that we are making purchases from Cuba at the rate of approximately $110,000,000 per year and selling Cuba about $77,000,000 annually. Ratio of our sales to purchases being about $70 to $100.

While we do not agree that the sugar-allotment question should be settled on the basis of which is the better customer the low-priced laborer of the Tropics or the farmer of the West, nevertheless there is ample evidence that a decision on such basis would be favorable to the beet-sugar producing area of the West.

NATIONAL DEFENSE AND SUGAR

A speaker recently said that in case of war, the United States could depend on Cuba for a permanent and cheap supply of sugar. Perhaps so—but let us refer to the record.

In 1920 Cuba was in a position to name the price of sugar in the United States, and the record shows that the average price for the 12 months of 1920 was $19.40 per hundred; in May, $25.40; in June, $26.70; in July, $36.50; in December, when sugar from beets was on the market, it dropped to $10.50, and by December 1921 it was down to $6.05.

Do you think we should take a chance in the future?

It seems to me to be entirely logical that if we are in time of war likely to become the world's bread basket, then we are just as likely to become the world's sugar bowl. Sugar is an essential food.

It is also perfectly easy to imagine a time in the future when all the sea power this Nation has or can muster will have to be put into use for defense purposes. Such a situation would eliminate our opportunity to bring sugar from island producing areas and would leave our people entirely dependent on the sugar that could be produced right here in the continental United States.

When a nation is involved with an enemy in conflict, it is certainly not a time for our Army and Navy, and those who support them in the field and on the seas, to live or be dependent on imported food.

You cannot grow beets and produce sugar on a hit-and-miss basis. Time is required to prepare the land and produce a crop and factories must be built and equipped to manufacture sugar. Like any other branch of agriculture, the production of sugar must be on an orderly and systematized basis.

It seems to me that it is obvious that this is the time when we should plan that our agricultural resources of all kinds, particularly essential foodstuffs, be built up to as near our maximum requirements as is possible. Certainly we should not plan to continue to import 70 percent of our sugar.

It takes a lot of food to keep a nation of over 130,000,000 people at full fighting strength, and we should not take chances of having our supply of any essential item cut off or with being left dependent on a supply limited to less than 30 percent of our peacetime requirements.

LABOR IN REFINERIES AGAINST LABOR PRODUCING DOMESTIC SUGAR

It has been pointed out that in American refineries there are employed 18,000 workers at an annual pay roll of $27,000,000. A splendid pay roll and a phase of the sugar question to be given due consideration. It is the pay roll of the United States for production of 70.25 percent of our sugar, all but the 29.48 percent of domestic beet and mainland cane.

Now let us see what labor there is employed in the United States to produce the 29.48 percent of our sugar. There are over 70,000 growers and 90,000 field workers, and 10,000 factory workers employed in the beet-sugar industry.

Louisiana sugar industry lists those engaged in the cane-sugar industry as 17,000 farmers and 100,000 employees.

Labor in processing plants is paid from $5 to $9 per day. Under the present Sugar Act the field labor is paid wages as determined by the Secretary of Agriculture. Field labor costs exceeds an average of $21 for every acre of sugar beets.

In addition to the direct labor mentioned, huge quantities of limerock, coal, cotton sacks, and equipment are used in the production and transportation of which labor is a large item.

"Railroads collect approximately $35 in freight for every acre of sugar beets, and please keep in mind that 47 percent of gross railroad revenue is expended for pay rolls."

I have seen statements to the effect that refining a ton of raw sugar in the United States costs under $4 per ton, while processing a ton of beet sugar costs $10.28.

It is not denied that reduction of imports of raw sugar from Cuba would proportionately reduce the figure of $27,000,000 in wages for refining, however it is clear that any reduction will be replaced more than fourfold by the expenditure for labor in growing and processing sugar beets and sugarcane.

It should be noted that more than 70 percent of the income of farmers on irrigated land is expended for manufactured and agricultural products of the Midwest, East, and South. The benefits to American labor, from the home market irrigated agriculture has created, are attested to by the long trains of west-bound freight and streams of trucks carrying eastern products westward.

Every dollar earned in the production of beet sugar is spent in the United States.

SUGAR BEETS PRODUCED ON FAMILY-SIZE FARMS

Ninety percent of the sugar beets grown in the United States are produced on family-size farms, with the growers and their families doing part of the work. The average area per grower of sugar beets is less than 14 acres.

In no other sugar-producing area serving the American market is the percentage of producers so largely individuals. In every other area corporations largely or entirely control production.

In Cuba 68.1 percent of the production is on corporate farms; in Puerto Rico, 77 percent; in Hawaii, 100 percent; in Florida, 99 percent; in Louisiana, 48 percent.

CONSUMERS' INTEREST

A great deal is being said about protecting the consumer in every discussion regarding sugar legislation. Government officials are on record as stating, that if tariffs, processing taxes and benefit payments were eliminated that the consumer would be able to buy sugar at retail for 2 cents per pound less than the current prices. This conclusion is sometimes reached by considering the sum of the tariff on raw sugar entering the United States plus processing taxes, or benefit payments, more often, however, by pointing to the wholesale price of raw sugar in the so-called world market.

Most of the sugar produced in the world is sold in protected markets similar to the market in the continental United States. The world market is simply the market that exists, particularly at London, for sugar that is dumped after the producers have sold nine-tenths of their product in a protected market.

Not to exceed 10 percent of the world sugar production is sold on this dump market. Can it be said that the price for such dumped sugar is by any stretch of the imagination, the world-market price. By using the so-called world price for dumped sugar, administration officials have estimated that the American consuming public is paying a $350,000,000 annual subsidy to the sugar industry.

Let us analyze just what would be necessary if the United States were to be able to secure sugar at this dumped price.

First, we should remember that less than 10 percent of the world's production is dumped on the market—not more than 3,000,000 tons annually. It must be assumed that the market for this 3,000,000 tons will continue to exist, therefore in order to fill the present market and supply the needs of the United States, 6,500,000 tons of additional dumped sugar would have to be secured. There is no evidence to show that growers in any country in the world would engage in producing a large additional quantity of sugar for the so-called dump price.

Certainly, if the United States had to go into the market and purchase its entire supply it would immediately cause a very abrupt rise in the price of sugar in the world market. In fact there is every indication that our consumers would be required to pay more than present retail prices. This is proven by the fact that consumers in the United States buy sugar today at prices lower than prices in effect in any first-class nation in the world.

The average retail prices of sugar which have prevailed in continental United States under the Jones-Costigan Act and the Sugar Act of 1937 have been decidedly low. The annual average prices since 1934, as reported by the Bureau of Labor Statistics, are as follows:

Cents a pound

1934	5.5
1935	5.7
1936	5.6
1937	5.3
1938	5.4
1939	5.4
6-year average	5.48

The following table, quoted from CONGRESSIONAL RECORD of June 20, 1940, and originally obtained from the Bureau of Foreign and Domestic Commerce, shows the retail prices of sugar in 38 countries of the world in May 1939, as follows:

Retail price per pound United States cents

Exporting countries:	
Brazil	2.95
British Guiana	9.75
Cuba	3.84
Dominican Republic	6.00
Peru	2.40
Hungary	9.60
Australia	6.21
Philippine Islands	3.52
Netherland Indies	3.38
Union of South Africa	6.27
Average price	5.39
Principally self-supplying countries:	
Argentina	4.75
Ecuador	2.71
Guatemala	4.00
Mexico	2.88
Panama	7.50
India	6.01
Japan	5.56
Bulgaria	12.49
France	7.68
Germany	13.64
Italy	15.62
Netherlands	11.19
Rumania	10.25
Sweden	5.47
Yugoslavia	13.86
Average price	8.24
Importing countries:	
Chile	4.52
Honduras	3.92
Uruguay	3.58
China	3.70
Finland	8.43
Ireland	5.85
Norway	7.69
Portugal	8.49
Switzerland	4.74
Turkey	9.44
United Kingdom	5.36
Canada	6.30
United States	5.10
Average price	5.93

The average retail price of 0.0548 per pound for the last 6 years is lower than prices in 9 out of 12 importing countries, less than in 12 out of 15 self-supplying countries, and much less than average price for all countries.

How can it then be said that our consumers are paying a subsidy or that sugar would be sold at retail for a lower price if our American beet- and cane-sugar industries are destroyed.

SUGAR LEGISLATION REQUIRED

I believe it is generally conceded that the American grower of beets and cane cannot, except in a very limited way, continue without some measure of protection. I believe the statement just made is equally true regarding almost all other products grown or manufactured in the United States. No grower or manufacturer can pay the wages to labor that are in effect in the United States and compete with the cheap breech-cloth labor in the Tropics or in Europe.

The tariff in itself has proven defective as the sole means of protecting domestic production, because in the event of a tremendous world-over production there can be dumping on the American market.

The Western Beet Growers' Association favors sugar legislation continuing the quota system but with provision for increasing the allotment for continental growers. An increase of at least 300,000 tons for the beet area should be granted for 1941; 200,000 tons of which are needed to offset the present excess production over quota, and 100,000 tons for the benefit of new growers and new areas.

From 1942 until 1946 moderate additional allotments are needed by the beet areas. We are assuming that with the expiration of provision for duty-free Philippine sugar in 1946, that allotments will again be subject to adjustment.

The bill H. R. 9668, introduced by Congressman LEMKE on May 6, 1940, would provide satisfactorily for expansion of the beet-sugar industry, except that the basis for domestic beet for 1941 should be increased to 1,850,000 tons, and proportionate increases for the next 4 years.

H. R. 9668 also contains the following clause, which is very desirable for the purpose of granting new growers and new areas the right to participate in the sugar program:

"Provided, however, That in determining the proportionate shares (in terms of acreage) for the progressively increasing tonnage for the domestic beet-sugar area, as provided in section 202 (a) (1), the Secretary of Agriculture shall give first consideration to newly irrigated or other areas desiring to plant beets so that the establishment of necessary factory capacity for processing purposes where needed may be encouraged, it being the intent of this section to insure consideration for new sugar-beet producers in areas now without adequate processing facilities where beets may be economically produced."

H. R. 9654, passed by the House and now under consideration by the Finance Committee of the Senate, would extend the 1937 Sugar Act for 1 additional year. In connection with the consideration of this bill the Western Beet Growers Association ask that amendments be made granting additional acreage to beet growers. Suggestions for necessary amendments are hereto attached.

WESTERN BEET GROWERS ASSOCIATION

Proposed amendments to H. R. 9654, extending provisions of Sugar Act of 1937 for 1 year, now pending before the Senate Finance Committee, are attached hereto:

Amendment A provides:

1. That in extending the Sugar Act of 1937 the domestic beet-sugar area shall be allotted approximately 300,000 tons in addition to the basic quota provided for by existing law. This would increase the beet-sugar allotment for 1941 to approximately 1,850,000 short tons. With the average production for the last 2 years approximating 1,750,000 tons, the proposed amendment would take nothing from existing beet growers but would provide that the 100,000 additional tons or one-third of the increase should be allotted to new growers and especially to newly irrigated and other areas which heretofore have not been able to secure allotments.

2. That the method of adjusting quotas among the other sugar-producing areas, including Cuba, shall be left to the Secretary of Agriculture with the provision that no domestic area shall have its allotment reduced below the average production for the calendar years 1938 and 1939. This would prevent any decrease in the sugar production for the insular possessions, Louisiana, or Florida.

Amendment B: 3. An alternative amendment would provide for a flat increase of 20 percent in the allotments for all domestic sugar-producing areas and a corresponding decrease in the allotment for Cuba.

(The suggested amendment under paragraph 3 is more in line with the previous proposals that all domestic-sugar areas should be increased proportionately. A 20-percent increase in domestic allotments will give the beet area about 300,000 additional tons and reduce the Cuban allotment by a total of around 740,000 tons.)

Amendment C: 4. A suggested amendment provides for reducing the Cuban total.

E. W. RISING, *Vice President.*

Amendment "A" proposed for H. R. 9654, extending the Sugar Act of 1937: Section 6, subsection (a) of section 202 of the Sugar Act of 1937 (relating to proration of sugar among domestic sugar-producing areas) is amended by adding at the end thereof the following:

"This subsection is hereby extended to provide that not less than 4,115,353 short tons of sugar shall be allotted for proration among domestic sugar-producing areas: *Provided, however,* That of said 4,115,353 short tons not less than 44.95 percent (1,850,000) short tons shall be allotted to domestic beet-sugar areas: *And provided further,* That it is the intent of this amendment to authorize and direct the Secretary of Agriculture, in determining proportionate shares (in terms of acreage) of the increased tonnage to give preference for at least one-third of the additional tonnage for the domestic beet-sugar area to new growers and to growers in newly irrigated and other areas who have heretofore been deprived of opportunity to produce and market sugar beets under the provisions of the Sugar Act of 1937."

NOTE.—This proposed amendment does not undertake to say where reductions shall be made in quotas to permit the increase for the domestic sugar-beet area, but since it can come only from Cuba this proviso may be added:

"And provided further, That the Secretary of Agriculture is authorized and directed to make such reductions in the allotment to Cuba as will permit the increase in the tonnage allotted to the domestic beet-sugar area."

Amendments "B" and "C" proposed for H. R. 9654 extending the Sugar Act of 1937 for 1 year:

Amendment "B"

Section 6, subsection (a) of section 202 of the Sugar Act of 1937 (relating to allotments to domestic sugar-producing areas) is amended by adding at the end thereof the following:

"Provided, however, That for the calendar year 1941 the Secretary is authorized and directed to increase the basic allotments for each of the domestic sugar-producing areas by 20 percent, with the proviso that at least one-third of the increased allotment for the domestic beet sugar area shall be apportioned among new growers and among growers in newly irrigated or other areas who have heretofore been deprived of opportunity to produce sugar beets under the provisions of the Sugar Act of 1937."

Amendment "C"

Section 7, subsection (b) of section 202 of the Sugar Act of 1937 (relating to allotments to the Philippine Islands and Cuba) is amended by adding at the end thereof the following sentence:

"Provided, however, That for the calendar year 1941, the amount of sugar prorated to Cuba shall not exceed the difference between the amount of sugar determined to be needed to meet the requirements of consumers and the sum of the amount allotted to domestic sugar-producing areas under the provisions of section 6 of this act and the quota established for the Philippine Islands under the provisions of the Sugar Act of 1937."

WHAT EXPANSION OF SUGAR-BEET INDUSTRY MEANS TO WEST AND SOUTH

For the farmer

1. Permits the production of a crop of which the United States does not produce a surplus.
2. Will preserve for the American farmer a greater share of the American market.
3. Will more than offset any loss of foreign markets for American farm products by increasing purchasing power at home.
4. Will stabilize agricultural conditions in the West, including the livestock industry, and provide needed diversification of crops.
5. Will provide cash income for farmers on Federal reclamation projects and assure repayment of the Federal investment in irrigation facilities.

For labor

6. Will require construction of sugar factories, with consequent greater employment of skilled and unskilled labor.
7. Will give increased employment for farm labor and remove many from relief rolls.
8. Will provide opportunity for making a new start in life for many of the 100,000 farm families forced to migrate westward by the drought and other conditions.

For the businessman

9. Will turn a larger percentage of the American consumer's dollar into channels of American trade.
10. Will more than offset any loss of foreign markets for American products by increasing purchasing power in the West and South.
11. Will provide investment opportunity for millions of dollars of new capital in sugar factories and equipment.

For the taxpayer

12. Will bring no charge on the Federal Treasury, since the sugar program is more than self-sustaining.

REVISION AND CODIFICATION OF NATIONALITY LAWS—CONFERENCE REPORT

Mr. SCHWELLENBACH. I submit the conference report on House bill 9980 and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. SCHWARTZ in the chair). The report will be read.

The Chief Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9980) to revise and codify the nationality laws of the United States into a comprehensive nationality code, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 3.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 4, 6, 7, 8, 9, 10, and 11, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of inserting the matter proposed to be inserted by the Senate amendment, on page 92 of the House bill, between lines 10 and 11, insert the following:

"SEC. 503. If any person who claims a right or privilege as a national of the United States is denied such right or privilege by

any Department or agency, or executive official thereof, upon the ground that he is not a national of the United States, such person, regardless of whether he is within the United States or abroad, may institute an action against the head of such Department or agency in the District Court of the United States for the District of Columbia or in the district court of the United States for the district in which such person claims a permanent residence for a judgment declaring him to be a national of the United States. If such person is outside the United States and shall have instituted such an action in court, he may, upon submission of a sworn application showing that the claim of nationality presented in such action is made in good faith and has a substantial basis, obtain from a diplomatic or consular officer of the United States in the foreign country in which he is residing a certificate of identity stating that his nationality status is pending before the court, and may be admitted to the United States with such certificate upon the condition that he shall be subject to deportation in case it shall be decided by the court that he is not a national of the United States. Such certificate of identity shall not be denied solely on the ground that such person has lost a status previously had or acquired as a national of the United States; and from any denial of an application for such certificate the applicant shall be entitled to an appeal to the Secretary of State, who, if he approves the denial, shall state in writing the reasons for his decision. The Secretary of State, with approval of the Attorney General, shall prescribe rules and regulations for the issuance of certificates of identity as above provided."

And on page 92 of the House bill, line 11, strike out "Sec. 503" and insert "Sec. 504"; and on page 98 of the House bill, line 5, strike out "Sec. 504" and in lieu thereof insert "Sec. 505."

And the Senate agree to the same.

LEWIS B. SCHWELLENBACH,
WARREN R. AUSTIN,
Managers on the part of the Senate.

JOHN LESINSKI,
CHARLES KRAMER,
EDWARD H. REES,
JAMES E. VAN ZANDT,
Managers on the part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. KING. Mr. President, the conference report deals with a measure of considerable importance covering a rather wide range of matters of legislation and political concern. I do not rise for the purpose of opposing consideration of the report but primarily to invite attention to the fact that in my opinion an injustice is being done to a number of persons who enjoy a civil-service status and who are in the Government service. As Senators know, after the United States took over the Philippine Islands a considerable number of Filipinos from time to time came to the United States, and I might add that a number of American citizens established themselves in the Philippine Islands and are there engaged in various business activities. Many Filipinos entered the military and naval service of our Government and, as indicated, several hundred—perhaps several thousand—from time to time came to the United States.

For a number of years there was uncertainty as to what would finally be the relations between the United States and the Philippines and the status which Filipinos would occupy. However, the Tydings-McDuffey Act, passed only a few years ago, made provision for the independence of the Philippines in 1946. A number of Filipinos who came to the United States obtained positions in the Government, and a limited number submitted to civil-service examinations and obtained civil-service ratings. Perhaps 200 of those who have a civil-service status are affected by the measure under consideration. This measure provides for the naturalization of various groups who are denominated in the measure as—

White persons, persons of African nativity or descent, and descendants of races indigenous to the Western Hemisphere.

The bill, however, excludes Filipinos, even though they have a civil-service status, and have served the Government for many years, and are still occupying positions under civil-service rules and regulations.

As will be observed, many groups and persons who are not citizens, who have not served the Government, and who do not have a civil-service status have the privilege of becoming naturalized citizens. Filipinos, however, regardless of their loyal service to the Government, are discriminated against and are denied the opportunity of becoming American citizens. I stated the number is very small, probably not more than 200, and they are discharging with fidelity the duties of the positions which they occupy. It was claimed by opponents of the proposition to permit the naturalization of the Filipinos referred to, that there were groups in other nationalities for whom provision was not made for their naturalization. A sufficient answer to that contention is that those persons within the category last referred to were not denied because of their race or nationality the chance of becoming American citizens. The Filipinos may not be naturalized, whereas groups of various nationalities may become citizens of the United States.

Hon. JOAQUIN MIGUEL ELIZALDE, the Resident Commissioner of the Philippines to the United States, appeared before the conferees and submitted a plea in behalf of the naturalization of certain Filipinos who enjoy a civil-service status. He suggested an amendment providing that "nothing in the act shall prevent the naturalization of native-born Filipinos with full civil-service ratings who have been in the service of the Government for at least 3 years."

His proposed amendment also covered other persons and groups as to which, as I understand, no controversy exists. The conference committee, however, refused to accept the amendment to the conference report and it, therefore, contains no provision in behalf of the group covered by the proposed amendment.

It seems to me that under all the circumstances the group of Filipinos who are now in the civil service of the Government and enjoy a civil-service status, should not be denied the opportunity of becoming naturalized. Many of them, as I have indicated, have been in the United States for 15 or 20 years—perhaps some for a longer period. A considerable number of them have married Americans and have children and homes, and constitute a part of the community in which they reside. They take part in civic, social, and political matters and they are, as indicated, a part of the communities in which they reside.

To deny them citizenship means to cast them out of the positions which they occupy, and to prevent them from obtaining any position whatever with the Government. While it may not occur to many, it seems to me that Congress should take cognizance of the dangerous situation in the Orient and the important position occupied by the Philippines in the event of a conflict in the Pacific. The Philippines are under the jurisdiction of the United States until 1946. They may be called upon to play some part in questions of international importance, which to a greater or less extent affect the United States. At any rate, I have felt that it was hardly fair or just to oust these fine public servants who have rendered and are rendering faithful and efficient service to our country.

Mr. SCHWELLENBACH. Mr. President, I should like to say a brief word. The Senate added 11 amendments to the House bill. The conferees on the part of the House, after full consideration, accepted 10 of those amendments. They stated very definitely that it was their deep conviction that if the other amendment remained in the bill it would not be possible to secure the passage of the bill in the other body.

This bill is a codification of the nationality laws, work on which was started in 1933 by the Department. It has been in the House of Representatives for 2 years. Some 30 or 40 hearings were held in the House on the bill, and it would be extremely unfortunate if, because of an amendment, the bill should fail of passage. While I was in full sympathy with the position of the Senator from Utah, and he presented the matter with his customary vigor and ability, I felt that the Senate should recede from that amendment in order to secure the passage of this very important piece of legislation.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

EXTENSION OF SUGAR ACT OF 1937

The Senate resumed the consideration of the bill (H. R. 9654) to extend, for an additional year, the provisions of the Sugar Act of 1937, and the taxes with respect to sugar.

Mr. THOMAS of Utah. Mr. President, while I concur in all the Senator from Colorado [Mr. JOHNSON] has said, while, of course, I am in agreement with the Senator from Michigan [Mr. VANDENBERG] when he says that he would like a better bill, and while I, of course, coming from a particular locality, should like to see the bill written entirely for the benefit of my own people and my own section, yet I feel that it would be unfair to the administration, unfair to the American people, and unfair to those who are interested primarily in the sugar industry for us at this time not to provide some sort of extension of the Sugar Act which has been the law since 1933.

I have, therefore, as carefully and as concisely as I know how, with what aid I could get, gathered together each of the objections which have been made to the sugar program as it has been administered by our Government since 1933. I shall categorically list the eight objections which have been made, as briefly as I can, and then I shall categorically answer those objections, also as briefly as I can.

Mr. President, the opponents of the administration's sugar program have made the following charges:

First. That the sugar program "has tended to discourage the domestic sugar industry in every possible way."

Second. That the present policy, which in the main is an extension of the program which began with the Jones-Costigan Act of 1934, was declared unconstitutional in 1936.

Third. That the growers are "rigidly limited" in acreage allotments.

Fourth. That "quotas have been adjusted to permit the price to fall below what it had been in 1934, although even the administration's theorists admitted that in 1934 it did not give the farmer a fair return."

Fifth. The sugar program has injured the American taxpayer because of the lower revenue obtained from the reduced duty on sugar.

Sixth. That the "sugar program has not helped either the grower or the consumer."

Seventh. That Secretary Wallace "traded the American sugar market for the Cuban lard market," and that a $72,000,000 sugar market was traded for a $4,000,000 lard market.

Eighth. That the administration's entire sugar program has been dictated by "anxiety for the welfare of the Cuban sugar industry."

Certainly it was not the view of the senatorial sponsor of the sugar program in its inception in 1933, the late Edward P. Costigan, that the plan for relieving the ills of the sugar industry embodied in his bill would have the vicious results described by opponents of the program. Speaking on the radio in defense of the administration's sugar program, as embodied in the then pending Jones-Costigan Act, on March 6, 1934, he said:

> On Lincoln's birthday there was introduced in Congress a much misrepresented bill which is part of President Roosevelt's farm-improvement program. It directly aims at the betterment of farm conditions and earnings for American sugar growers. The bill (S. 2732) has three special aims. First, it seeks to add sugar beets and sugarcane to the other basic commodities, such as wheat, cotton, and corn. * * * This means on the side of farm earnings, if the bill passes, that sugar farmers will receive the pre-war fair-exchange value of sugar beets. * * * Second, the bill provides that bounty payments are to be raised, without any increase in sugar cost to consumers, out of the proceeds of a processing tax on refined sugar exactly matching in amount the tariff reduction. Third, the bill provides a stabilization limitation on tonnage production in the different sugar areas of the continental United States, our island possessions, and shipments to the United State from Cuba.
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> * * * * * * *
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> The combination of a more moderate sugar tariff with bounty payments is a far sounder treatment of the sugar problem than the persistent policy of ever higher tariffs, which has led our domestic industry to the verge of ruin.
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> * * * * * * *
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> I am, therefore, merely repeating when I say—backed by long official experience on the Tariff Commission—that the pending bill is the most constructive tariff effort to save and promote our domestic sugar industry in the history of this country. It is the Rooseveltian New Deal experimentally applied to sugar. This new approach to an old problem is so well worth trying that growers can afford for the time being to be less worried about some details. It represents an immense advance over outworn methods.

Let us examine the facts to determine whether the late Senator Costigan was correct in his prediction as to the benefits of the sugar program, or whether opponents of the program are correct in their criticism. May I answer the charges in the order given:

First. That the sugar program has tended to discourage the domestic sugar industry in every possible way.

Here is the way in which the administration has discouraged the industry:

(a) Beet-sugar production, which averaged 1,276,000 tons of refined sugar in the period 1929–33, increased to 1,685,000 tons in 1938 and 1,641,000 tons in 1939, an increase of no less than 28 percent.

(b) The sugar-beet processors, who showed losses of about 5 percent on their equity in the fiscal years ending in 1931 and 1932, before the administration's sugar program, have enjoyed an average net income equal to about 10 percent of their equity since these programs have been operative.

(c) Sugar-beet growers, who averaged approximately $6.15 per ton of beets and a total annual income of $54,250,000 in 1929–33 period—this amount includes Government payments of approximately $2,500,000 made with respect to the 1933 crop—had about $7 per ton in the period 1934–38, and $61,335,000 total in annual grower income.

(d) Sugar-beet growers received special payments for damage caused to their crops by drought, flood, freeze, storm, and other natural calamities. This form of free crop insurance is not provided for any other agricultural crops.

Second. That the present policy which, in the main, is an extension of the program which began with the Jones-Costigan Act of 1934, was declared unconstitutional in 1936.

It was the Agricultural Adjustment Act which was declared unconstitutional in January 1936. The Jones-Costigan Act was never before the Supreme Court; and, except for the tax-payment feature of the Jones-Costigan Act, the act continued in effect throughout 1936 and 1937 until enactment of the Sugar Act of 1937, with reenactment of the tax-payment feature. Various sections of the Sugar Act have been before the courts in recent years, and these sections of the act and the administration thereof by the Secretary have been upheld by the courts in every instance.

Third. That the growers are "rigidly limited" in acreage allotments.

It is true that there have been rigid limitations on Puerto Rican growers, and, under Cuban and Philippine sugar legislation, supplementing our sugar program, there have been severe limitations on growers of cane in these countries. There has also been an attempt of large Louisiana and Florida growers to exceed their acreages, which the administration has been obliged to resist. But except for the crop of 1938 there have been no limitations on growers' beet acreages since 1934, and the 1938 acreage was practically at the record level. The acreage devoted to sugar beets has greatly increased in recent years.

Fourth. That "quotas have been adjusted to permit the price to fall below what it had been in 1934, although even the administration's theorists admitted that in 1934 it did not give the farmer a fair return."

This statement conveniently ignores the Government payments which have been made to producers under the sugar program. In 1934, prior to the sugar program, whenever prices fell to a low point, Government payments to producers were not made to supplement their income from processors. Under the sugar program the growers' returns per ton, for the United States as a whole, show a significant increase as compared with the prior years, as the figures already cited show. Furthermore, the proportion of the total income from the sale of sugar received by growers has increased under the program. Until doubt arose this year about continuance of the sugar quotas after December 31, 1940, the price of sugar, including payments to growers, compared very favorably with the years prior to the program. The low price of 1934 for

raw sugar, duty-paid, was 2.70 cents, while the price, including Government payments, has averaged in excess of 3.50 cents per pound since the passage of the Sugar Act of 1937.

The recent decline in price is, in the opinion of trade experts, due more to uncertainty about whether or not there will be a quota system next year than to failure to adjust supplies to demand under the quota system. If anyone desires to help the sugar growers and processors, the first step is to give the sugar market confidence in the continuance of the quota system after December 31, 1940.

Fifth. The sugar program has injured the American taxpayer because of the lower revenue obtained from the reduced duty on sugar.

This statement is misleading, because the Treasury income from the duty on sugar was gradually disappearing as the high tariff duty stimulated the production of duty-free sugars in the United States and its possessions. The duty collections on Cuban sugar decreased from a peak of $145,000,000 in 1922 to only $63,000,000 in 1933, even with the highest tariffs on Cuban sugar in the history of the industry.

Sixth. That the "sugar program has not helped either the grower or the consumer."

It is, of course, inconsistent to say that the sugar program has not helped the consumer and at the same time to argue for greatly decreased supplies to consumers in order to increase prices to them.

Seventh. That Secretary Wallace "traded the American sugar market for the Cuban lard market," and that a $72,000,000 sugar market was traded for a $4,000,000 lard market; and

Eighth. That the administration's entire sugar program has been dictated by "anxiety for the welfare of the Cuban sugar industry."

In the above statement rice and other agricultural exports to Cuba are omitted in sarcasm. These exports, plus industrial exports, amounted to $78,000,000 in 1939. All the "invisible" items of trade are omitted also: the purchase of silver by the Cuban Government, for example.

This is how this administration has favored the Cubans:

First. Throughout the entire period of the 90-cent duty, there was in effect an excise tax on sugar against Cuba which makes the total burden on Cuban sugar producers throughout the period $1.40 per hundred pounds instead of 90 cents per hundred pounds.

Second. The amount of sugar permitted to come in from Cuba was slashed from about one-half of our total consumption in the late twenties to about 29 percent under the sugar program. This year's Cuban quota of 1,863,000 tons compares with receipts of Cuban sugar in the years 1925–32, as follows:

1925	3,486,000
1926	3,944,500
1927	3,491,000
1928	3,125,000
1929	3,613,000
1930	2,945,500
1931	2,534,000
1932	1,834,500

As a part of my remarks I should like to have inserted in the RECORD at this place a letter by Joshua Bernhardt, Chief of the Sugar Division, to a friend of mine in Utah. The letter explains the problems facing the sugar industry in America.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 10, 1940.

MY DEAR SIR: Hon. ELBERT D. THOMAS has referred to us your letter to him of May 13, 1940, and has asked us to write and inform you on the sugar program.

As you point out the beet-sugar industry is essential to the prosperity of Utah and the intermountain region, and it goes without saying that if it were possible to expand the beet-sugar industry in the Western States as you request without injury to important groups of citizens in other parts of the United States, there would be no difficulty in the sugar situation. Unfortunately this is not the case.

In support of your view you state that the sugar-beet industry "is not competing with any other American industry." The following quotation from a speech by the executive secretary of the United States Cane Sugar Refiners Association, made at a public meeting held on May 3, 1940, in New York City, shows the conflict of interests between the sugar-beet industry and the various communities on the eastern and southern seaboard which have long been dependent upon the business of refining raw sugar:

"In the face of an increased consumption, the port of New York business declined from about 2,100,000 tons to 1,200,000 tons. And I repeat: Last year, in 1939, New York had the lowest volume of sugar business, on a proportionate basis, that it has had since it was organized here in 1696.

"Now, why did that take place? Why did New York lose its volume of sugar business? Well, New York lost its volume of sugar business largely—not entirely, but largely—due to the fact that our Federal sugar policy favored other sugar groups and areas.

"The first thing that has crippled New York's sugar industry—and, gentlemen, it will continue to cripple it unless legislation stops it—has been the tremendous increase in the production of beet sugar in our Western States. I want to get it into the record, Mr. Pike, without any equivocation, that the refiners are unalterably opposed to an expansion of the production of beet sugar."

The recent public hearings on sugar before the House Agricultural Committee contains similar statements and resolutions by many organizations and communities which would be adversely affected by further expansion of the sugar-beet industry.

The primary cause of anxiety of the sugar-refining communities referred to is the record expansion of sugar-beet production in the United States under the sugar program of this administration. As you know, the production of beet sugar increased from an average of 1,238,000 short tons of refined sugar in the years 1928–37 to 1,685,000 tons in 1938, and 1,641,000 tons in 1939. All beet sugar is produced in refined form and consequently competes directly with the products of the seaboard refineries.

Curtailment of our importations of sugar is also an injury to a number of agricultural and industrial areas that have export outlets in the offshore sugar-producing areas which supply our market. Cuba, which supplies about 29 percent of our sugar requirements, is one of our most important foreign markets for our agricultural and industrial products. In fact, last year, the neighbor republic took $81,000,000 worth of commodities from us, compared with only $24,763,000 in 1933. The island is our principal foreign market for rice, and our second most important export outlet for lard. Exports of rice to Cuba in 1933 totaled only 4,785,000 pounds; in 1939 they amounted to 209,253,000 pounds, while in the same period lard exports went from 10,908,000 to 55,431,000 pounds. Obviously, American exporters of these and other products are anxious to protect the Cuban export market.

Consequently, as the President has repeatedly explained, the whole problem of sugar legislation is an effort on the part of the Congress to balance equitably the interests of the various conflicting groups involved. Every effort was made by representatives of the different interests during the past 6 months to agree upon a program, but it was not possible for them to come to a satisfactory conclusion. To avoid serious injury to the sugar-beet farmers, sugar-beet processors, and other interests now enjoying protection under the sugar program, it was necessary for the President to drop definite legislation on sugar and concentrate on mere continuance for 1 year of the existing program.

We have noted your statements to the effect that the profits of those engaged in the beet-sugar industry are unsatisfactory. The following table sets forth the financial record of the processors to whom you have referred:

	Utah-Idaho Sugar Co., net income after all charges	Amalgamated Sugar Co., Inc., net income after all charges [1]
Fiscal year ended—		
1929	[2] 143,463	[2] 23,168
1930	[2] 284,826	[12] 259,574
1931	[2] 2,095,000	[2] 595,823
1932	[2] 446,591	[2] 925,843
1933	[2] 390,314	[2] 427,502
1934	1,497,001	1,067,697
1935	1,048,504	263,546
1936	1,215,914	846,438
1937	1,256,318	[4] 1,087,230
1938	577,092	284,726
1939	414,625	722,033
1940	[5] 751,859	

[1] Before surplus adjustments.
[2] Deficit.
[3] 13-month period.
[4] 18-month period.
[5] After allowance of $250,000 for property abandonment in addition to normal depreciation. In the absence of this unusual charge, the net income of the company would have been equal to approximately 5 percent of its net worth. The income of the Amalgamated Sugar Co. for the period ended with Sept. 20, 1939 (the last date for which information is available), was equivalent to approximately 10 percent of its net worth.

You will note that processors' losses in the years 1929–33 were turned into substantial profits under the sugar program. Growers have received approximate parity returns during this period.

For your further information we enclose a copy of a bulletin recently prepared in this Department explaining the sugar program in relation to sugar beets and a copy of the letter from

the President to the Honorable MARVIN JONES, dated April 11, 1940, on sugar legislation.

Sincerely yours,

JOSHUA BERNHARDT, *Chief.*

Mr. THOMAS of Utah. Mr. President, I should like to emphasize the figures given in the last part of this letter. The figures deal with the incomes of the two great sugar companies in my State, and it seems to me that from the figures we can draw a conclusion which is absolutely based upon facts. The conclusion is that over a period of years these great sugar companies operated in the red, as I have previously stated. Then, beginning in 1934, and down to the present time, they have been consistently in the black, with a reasonably good, in fact, a splendid income from the investment.

From 1934 to the present time we note gains which have been substantial. Making comparison from the day of the loss to the day of the gain, we find the gain in percentages is tremendous. Of course, any percentage of gain compared with any percentage of loss is a tremendous gain, but when from a 5- or 6-percent loss on all equity, on all investment, the income has increased so as to show approximately a 10-percent gain on all investment, the program seems even too good to be true.

The processors in my own State have always been unfriendly to the act until there was danger of its not being continued in force; they have always been unfriendly especially to those who aided Senator COSTIGAN in bringing about the great sugar reform, and especially unfriendly to that particular Senator who had charge of the international sugar agreement, which supplemented the local act, and which put sugar pretty well under control, if not under control completely, at least to the extent that the whole world knows exactly what is taking place in the sugar industry in all parts of the world.

From this type of control, or from this type of study, we can gain at least an understanding, so that if there is anything at all in a managed economic system, if there is anything at all in the ability to fit industry into actual need, if there is anything at all in artificially or arbitrarily attempting to make industry profitable by any kind of act, we will be able to demonstrate it.

I cannot help saying, furthermore, that, as a result of what may be called experimental economics, and experimental agriculture, that which has been accomplished is all to the good, not, as one Senator has said, all that we would like, not, as any of us say, all that we want. Heaven only knows that if we could have all we pray for, we would have this world revolving around ourselves and our own interests. But I know of no time in the history of the world when an ordinary individual group, unless it has gone definitely into the exploitation of other groups and has taken advantage against other groups, has ever had its way for a very long time.

Mr. President, I ask to have inserted in the RECORD a Department of Agriculture press release dated August 26, 1940. I know that this information will be of interest to the Senate and to the general public.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

[United States Department of Agriculture, Washington, D. C., August 26, 1940]

SECRETARY APPROVES REVISION IN SUGAR CONSUMPTION ESTIMATE

Secretary of Agriculture Henry A. Wallace today announced reduction in the estimate of consumers' requirements of sugar for the calendar year 1940 from the present estimate of 6,607,745 tons, announced February 23, 1940, to 6,471,362 tons, a decrease of 136,383 tons.

The Sugar Act of 1937 directs the Secretary of Agriculture to make an initial determination of consumers' requirements in December for the following calendar year and to make any necessary adjustments in this initial determination during the year. The present revision was made in accordance with a formula contained in the act on the basis of an analysis of statistics on sugar distribution in the United States during the first 6 months of 1940, which have been obtained recently and which were released on August 5, 1940, preliminary figures received to date on "invisible" stocks of sugar to be released shortly, and other data on demand conditions for sugar. The quotas for the various sugar-producing areas under the revised figure compare with the former quotas as follows:

	Revised determination	Previous determination of Feb. 23, 1940
Domestic beet	1,549,898	1,549,898
Mainland cane	420,167	420,167
Hawaii	938,037	938,037
Puerto Rico	797,982	797,982
Virgin Islands	8,916	8,916
Philippine Islands	[1] 982,441	1,003,783
Cuba	1,749,796	1,863,217
Foreign countries other than Cuba	24,125	25,745
Total	6,471,362	6,607,745

[1] 1939 duty-free quota.

Officials of the Department pointed out that under the Sugar Act no reduction may be made below 3,715,000 tons in the domestic quotas. Consequently, the reduction affects the Commonwealth of the Philippine Islands, Cuba, and other foreign countries solely.

Mr. THOMAS of Utah. Mr. President, my remarks have in a sense been political, therefore it will not be entirely out of place for me to turn to another subject.

Last night in Pittsburgh Mr. Wendell Willkie, the Republican nominee for President, attempted to win labor's votes by announcing his belief in the gains labor has won under the New Deal.

No doubt many workers will question Mr. Willkie's sincerity in view of the labor record established by some of the companies he has headed in the Commonwealth & Southern system. For instance, the Radio and Electrical Union News, published by the International Brotherhood of Electrical Workers, an A. F. of L. union, recently reported that the Alabama Power Co., one of Mr. Willkie's former concerns, was "still one of the blackest spots on the utility map" from the labor standpoint.

But, for the purpose of this discussion, I do not question the Republican nominee's sincerity. I want to suggest to organized labor that as President, Mr. Willkie can be no more friendly to labor than his party—which has shown, and continues to demonstrate whenever there is a showdown—that it does not agree with its nominee on the National Labor Relations Act, or many of the other reforms to which Mr. Willkie pledged allegiance last night.

Workingmen who listened to the speech last night undoubtedly noted that his Republican audience found much more reason to cheer when Mr. Willkie talked about changing the administration of the Labor Board than when he announced he was for the act and supported the right of labor to bargain collectively. Workers, I am sure, noticed that throughout his speech there was little enthusiasm when he listed labor's gains, but great enthusiasm when he used the language of labor critics in denouncing the Board's record.

That attitude is the attitude of the Republican Party as demonstrated by its voting record here in Congress. It was not Republicans who put through the Wagner Act and these other protections for the workingmen. The record shows that these laws are on the books because of Democratic votes, not Republican votes.

When the Wagner Act originally passed the Senate, on May 16, 1935, there were 12 votes against it in the Senate, and 8 of them were Republican votes. Republican votes were largely responsible for forcing through the House the so-called Smith amendments to the labor law, which, if they should be adopted as they stand today, would sabotage that act. Republicans voted more than 10 to 1 for that emasculating proposal.

When labor looks at the record, I am sure it will realize that Mr. Willkie cannot speak for his party on these issues. It will vote for the party which put these laws on the books and against the one which has tried to block these gains or would sabotage them.

Mr. ANDREWS. Mr. President, I desire to make my opposition clear with reference to the pending bill. I am opposed

to it because I consider it undemocratic and against the best interests of the consumers and producers of sugar, as well as the interest of American labor, and a detriment even to our national defense in this emergency.

Recognizing my right to object to the consideration of the bill at this time, any objection I might make would be immediately nullified, I am sure, on a motion to consider the bill, and I therefore do not interpose an objection to its consideration. However, I desire to have the RECORD show that I am opposed to the proposed legislation, but I do not object to its consideration now solely because I know that my objection would be immediately overruled by a majority vote of my colleagues, and I consider our time at this moment to be too valuable to be wasted by the interjection of dilatory tactics against the proposed legislation.

Mr. President, I propose, in what I shall say, to lay the foundation for future activity on the sugar-quota measure, and I shall present my views at this time.

In these days of world stress America should guard well her supplies of essential materials. Congress has been asked to spend many millions for the acquisition of essential raw materials, but there is one item on the essential-material list which we apparently have overlooked. I refer to sugar.

Sugar today is not a mere luxury. Sugar is a food. Sugar is something that is essential to any nation, whether at war or at peace, and it is one essential material it can cost us nothing to acquire.

Conditions in Europe have vitally changed the American sugar problem. It has been recently stated that for a nation at war bullets come first in importance, wheat second, and sugar third. I sincerely hope that our Nation will never be at war; but, if sugar is so important, let us do something to be assured of a steady supply for our people, irrespective of war or peace.

Home production should not in any event be denied or restricted so long as America produces less than it consumes. In spite of this obvious fact, under the iniquitous Sugar Act of 1937, we have set up a quota system in this country under which we must get two-thirds of our sugar from areas outside our mainland. This sugar which comes to us from Cuba, the Philippines, and other offshore areas must be transported by boat, and recent figures from the Maritime Commission concerning its transportation indicate the danger of relying on offshore areas for our sugar.

Over 85 percent of the vessels engaged in transporting sugar from Cuba to the United States are Scandinavian, and it must be remembered that Cuba supplies us with about one-third of our sugar consumption. Approximately 27 percent of the vessels engaged in transporting sugar from the Philippines to the United States are Scandinavian, 14 percent are British, 40 percent are Japanese, while only 15 percent are American. The Philippines supply us with about a sixth of the sugar; in other words, nearly 1,000,000 tons.

What would happen tomorrow if we were to engage in war with Japan? Probably the Philippines would be cut off. In the first place, there would be no vessels to bring the sugar to us. We know that the Japanese, who transport most of it, would not transport any and we could not obtain that sugar supply. If that were to occur it would take us 5 to 6 years to overcome the resulting deficiency in America. We are running a great and a dangerous risk in not allowing the people on the mainland of the United States at this time to lay the foundation for supplying ourselves. Let the world do what it pleases. We should look after ourselves.

What will happen to our sugar supplies if the Scandinavian British, and Japanese vessels are unable or refuse to transport our sugar to us? Britain needs all her vessels, including the Scandinavian vessels commandeered when those countries fell, for her own life-and-death struggle; Japan's militaristic clique now in power is unfriendly to us; the dictators, if they conquer Britain, will control the shipping industry. How, then, will we get our sugar from these offshore areas?

The answer is obvious. If unsettled world conditions continue, we in the United States will have a sugar shortage similar to what we had during the last war, and sugar prices will go sky high, as they did then.

Let us look back and see what happened to sugar prices during the last war, when we had to rely on offshore sources for sugar.

In 1914 the average retail price of sugar in the United States was slightly less than 6 cents per pound. By 1919 the average retail price for sugar in the United States was nearly 11½ cents per pound, while in 1920 the price was 20 cents per pound. It was even necessary to ration sugar during this period. Do we want this to happen in the United States again?

During the World War sugar was apportioned or rationed in my home city, and I recall very distinctly the trouble the authorities had in trying to prevent a great number of selfish persons from stealthily buying and storing excess amounts of sugar for the use of their own families and causing those who did not do likewise to suffer thereby.

Last year the United States had a sample of what happens when wartime conditions are coupled with limitations on marketings as provided for under the present Sugar Act of 1937, with its undemocratic quota system.

On August 15, 1939, the average retail price per pound for sugar in the United States was a little over 5 cents. In early September, immediately after the outbreak of war, retail prices jumped sharply all over the United States. The average price of sugar jumped about 1½ cents per pound, but in some cases prices went up as much as 5 cents per pound. The Department of Justice, as Senators remember, was flooded with complaints from housewives who were unable to buy sugar at any price and who in many instances were actually rationed when purchasing sugar.

By mid-September the price flurry had subsided, but the housewife in Boston was paying on the average a little over 6½ cents per pound for sugar, the housewife in Pittsburgh was paying slightly more, the Cleveland housewife was paying 7 cents per pound, while the housewife in Detroit was paying a little more. This occurred without the United States being in war. What would happen if this country ever becomes subject to wartime conditions?

Because of these advancing prices and the shortage in sugar supplies, on September 11, 1939, the President of the United States found it necessary to suspend the undemocratic sugar quotas so that more sugar could come in and prices could come down. Immediately the price of sugar fell to its pre-war level. In this act of the President we have the answer to the entire sugar problem in the United States and a way to avert a repetition of any wartime increase in price.

The present oppressive Sugar Act expires, as far as the quota powers of the Secretary of Agriculture are concerned, on December 31, 1940. As Senators know, this act allows American mainland producers to have only 30 percent of the American market and hands over the rest of the American market to the producers in the Philippine Islands, Cuba, Hawaii, Puerto Rico, and the Virgin Islands. Cuba alone is magnanimously given 28.60 percent of the American market, or about as much of the American market as our own American producers.

Now pending in the Senate is a bill to continue the present Sugar Act for another year. There is absolutely no need to continue the Sugar Act if we are to safeguard our position in the face of what may turn out to be a very strained condition between some of the great powers of the world and the United States.

Mr. ADAMS. Mr. President, will the Senator yield at this point, or would he rather not be interrupted?

Mr. ANDREWS. I should rather not be interrupted until I conclude my speech, and then I shall be glad to answer any questions Senators may wish to ask.

To those who claim continuance of the act is necessary because the beet growers and sugarcane growers need the Government subsidies, I would say that they are provided for by the Agricultural Appropriation Act and that this would take care of the 1940–41 crop.

Under the present act the taxing powers for benefit payments do not expire until June 30, 1941. It is therefore un-

necessary to pass any additional legislation to provide for benefit payments for another year. Next year if it is deemed advisable to continue the quota system of sugar control, there will still be time for the new Congress to give that matter whatever consideration is its due.

I am opposed to the continuation of the Sugar Act, first as a citizen of the United States, and, second, as a citizen of Florida, for I feel that the best interests of our Nation and State are adversely affected by the act.

Let us look at the case of Florida for a moment. Under the so-called historical basis of the Sugar Act, Florida producers of cane sugar get less than 1 percent of the American market, or about 60,000 tons. According to statistics, Florida consumes 120,000 tons of sugar per year; yet under the act Florida is not allowed to produce even enough sugar for her own uses. Is that a fair situation? Florida is permitted to produce only half the amount of sugar which the people of Florida themselves consume. That is a situation which no one can satisfactorily explain. It is un-American. I am wondering what would happen, for instance, if the people of Wisconsin were not allowed to produce more than 50 percent of the cheese they consume. The same question may be asked with respect to many products in the various States. Suppose, for example, that the State of Wyoming were not allowed to raise more than 50 percent of the cattle which would supply the needs of the people of Wyoming. We are exactly in that situation. You may try to explain to our people in Florida. It cannot be explained.

Florida pays the highest wages of any area furnishing sugar for the American market. In spite of that fact the cost of producing sugar in Florida is approximately 2 cents a pound.

On the other hand, Cuba pays the lowest wages, yet Cuba, according to figures recently introduced before the House Agriculture Committee, has a cost of production in excess of 2¼ cents per pound. Strange as it may seem, Cuba with a higher cost of production, is given the lion's shares of the American sugar market, taking jobs away from American workmen and adding thousands to our relief rolls.

Those favoring the retention of the Sugar Act have given as one of their arguments the statement that turning over the American sugar market to outside interests in turn creates a market for the American manufacturer. "Buy their sugar", these people say, "and they will buy our automobiles, our radios, and the rest of the things we manufacture."

Let us analyze this statement. As pointed out before a recent House Agriculture Committee meeting on sugar legislation, in Florida there is a radio for every 7 persons. In Cuba there is a radio for every 48 persons, in Puerto Rico there is 1 radio for every 100 persons, and in the Philippines only 1 radio for every 608 persons.

In Florida there is 1 automobile for every 5 persons. In Cuba there is only 1 car for every 250 persons, in Puerto Rico only one car for every 130 persons, and in the Philippine Islands only 1 car for every 490 persons. The question arises, Who is spending our money and where?

These facts should completely dispose of the theories advanced by those who desire to retain the Sugar Act on our statute books. A member of the House Agriculture Committee in open hearings asserted that in his opinion a dollar spent in this country for sugar creates a far greater market for American products than a dollar spent in Cuba, of which only about 30 cents returns to this country. I should say that the return is much lower. While only 30 cents out of every dollar we spend for Cuban sugar is returned to this country in the purchase of goods, we can say that practically 100 percent of the amount spent for sugar raised in this country is spent among our own people.

When hearings were held in 1937 on the Sugar Act, some interesting facts were introduced, but somehow or other they were ignored. It was shown that American banks in New York own sugar mills in Cuba which produce nearly 60 percent of all the sugar produced in Cuba, and that only about 25 percent of the sugar in Cuba is produced by mills owned by Cubans. It is easy to see from this that Cuban labor cannot be expected to buy much of our manufactured goods when the profits of the sugar industry in Cuba are being siphoned off by the New York bankers and the Cuban laborers are paid peon wages. I understand they receive an average of 53 cents a day. American laborers producing sugar in the State of Florida are paid nearly $2; in addition, they are furnished homes, trained nurses, hospitals, and schools.

I have no objection to bankers making a profit, but if they are to make a profit let them make it in the United States; let them come to Florida for their sugar and we will produce it for them more cheaply. At the same time our workers will receive a much higher wage than that paid the peon labor of Cuba, and we shall thus maintain the American standard of living for the workers. If the bankers come to Florida and produce their sugar there, we can be assured that the American workers hired will purchase American goods and thus increase American production. We can be assured of a steady supply of sugar, a lessening of the relief rolls, and a lessening of the danger that we might not have enough sugar in the event of war.

Florida is not asking charity. Florida is asking for simple justice. In the 1937 hearings before the Senate Finance Committee on the Sugar Act the Senator from Utah [Mr. KING] stated that an examination of the Florida lands led him to believe that they are the richest in the world for the production of sugar.

Today in the Everglades of Florida thousands and thousands of acres of the richest soil in the world lie idle. Today in the State of Florida more than 30,000 persons are on relief because there is no employment for them in the State. Florida offers a solution to all these problems. Remove the sugar quotas and we shall put all this rich acreage to work; we shall furnish sugar cheaply for families now in want; and we shall take off the relief rolls many of our finest citizens.

In the production of 60,000 tons of sugar in Florida more than 5,000 heads of families are employed; and as we increase the amount allowed continental United States, or Florida, every time an additional 100,000 tons of domestic production are allowed, something like six or seven thousand more persons can be put to work. It seems to me that is a matter which ought to be seriously considered. Every person employed in America producing additional tons of sugar will spend all his money at home. I have some figures on the subject. In 1937 our exports to Cuba were $92,000,000, whereas our imports from Cuba were $148,000,000, a difference in favor of Cuba of $56,000,000. If we compare the imports and exports over a period of years we find that the same proportion generally holds true. For example, in 1911 the proportion of the total exports of the United States which went to Cuba was 3 percent, whereas the percentage of total United States imports which came from Cuba amounted to 6.9 percent, the exports being one-half of the imports. That condition has obtained consistently.

Florida should not be penalized for its ability and initiative. Immediately after the World War, when America learned that it could not produce enough sugar for its own consumption, the taxpayers of the State of Florida and the owners of the Everglades taxing district spent more than $20,000,000 in preparing this land for cultivation.

The Federal Government did not help drain the Everglades, but the landowners of Florida did it themselves in order to have land from which we could produce our sugar and winter vegetables. After the disastrous storm and flood of 1936, the Federal Government aided at a cost of $10,000,000 in building dikes around Lake Okeechobee to protect it from floods after the State had succeeded in draining this area.

Now let us look at the consumer. On March 1, 1938, Secretary of Agriculture Wallace wrote a letter to a member of this body stating as follows:

> It is estimated that at current prices American consumers are obliged to pay more than $350,000,000 per annum in excess of the value, at world prices, of their annual sugar supply—

That is without allowance for the estimated net revenue of approximately $47,000,000, represented by the difference between disbursements under the Sugar Act of 1937 and receipts from the tariff and the 50-cent tax on sugar, or for the possible increase in world price that might result from changed conditions—

this is equivalent to a tax of approximately $2.70 per capita on a population of 129,000,000 persons. It means on the average a levy of more than $10 per family, including that one-third of the Nation which is ill-nourished, and it represents an amount of purchasing power equal to more than 50 quarts of milk and 50 loaves of bread for each family in the United States.

It actually costs the American consumers $350,000,000 a year over and above world prices just because of our quota system restricting supplies. In the 6 years the quota system has been in effect American consumers have paid an additional sum of money amounting to more than $2,000,000,000. Think what we could have done with this huge sum. Our purchasers would have been able to take up a lot of the slack in the surplus commodities market; they would have been able to purchase the surplus citrus fruits, the surplus wheat, the surplus lard, the surplus apples, the surplus cotton, and a large amount of our manufactured products. Yes, this $350,000,000 a year would certainly increase our standard of living.

The undemocratic sugar-quota system penalizes people of low income more than any other group in the United States, for they can least afford this loss of purchasing power. In terms of families this sugar protection contribution amounts to the cost of from 12 to 30 family meals per annum, depending on the size of the family income. Or we can say that the extra cost of sugar means 50 fewer quarts of milk per year for these families. This may sound like a small matter, but to those who have all too little to eat it is a very important item.

We feel that the beet areas are entitled to their normal protection which the Tariff Act gives them. If the Sugar Act of 1937 should not be continued, as I fervently hope it will not be, domestic areas would still be automatically protected by a $1.50 per hundredweight tariff.

Mr. President, we should bear preeminently in mind at this time that England and France are now paying for their failure to build up their own capacity for the production of airplanes and other war materials. We all recognize this to be so. Let us at the same time recognize that we are in the same position with reference to sugar. We are neglecting to build up our own sugar-producing facilities, so that this strategic material and basic food will be plentiful in the United States irrespective of any war conditions.

Let us give American industry a chance; let us give American workmen a chance; let us, when the proper time comes, which I hope will not be in the distant future, wipe out, once and for all, the undemocratic Sugar Act of 1937 from our statute books.

I present and ask to have printed in the RECORD at this point a table showing the retail price and consumption of sugar in 10 countries in the past few years, which partially indicates why there is a war in Europe today. Germany and Italy have the highest prices for sugar and the lowest consumption per capita. It is obvious that the struggle for sugar is one of the many factors in the present war in Europe.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Retail price of sugar and consumption in 10 countries, 1936–37 and 1937–38

Country	Price (cents per pound)		Consumption per capita (pounds refined value)	
	1937	1938	1936–37	1937–38
United Kingdom	5.1	4.7	112.9	111.6
United States	5.6	5.3	97.3	96.5
Canada	5.9	5.9	102.3	103.0
Australia	6.6	6.6	99.0	116.8
Norway	7.2	7.2	78.5	73.9
Irish Free State	7.2	6.8	90.8	90.6
France	8.8	7.2	59.3	54.7
Netherlands	12.1	12.2	62.4	64.4
Germany	13.7	13.7	59.3	59.1
Italy	14.6	15.7	18.5	20.1

Mr. ANDREWS. Mr. President, let me refer to the situation in Florida. Between September 1939 and January 1, 1940, the sugar quota was lifted. That is the time of the year when the seed must be placed for the next planting. Feeling that world conditions at that time would justify the farmers of my State making additional plantings, they increased their plantings in cane 35,000 acres. Since that time the apportionment has been placed on cane, and, proportionately, the share of Florida is only about 25,000 acres. In other words, 10,000 more acres have been planted than are permitted under the apportionment act because of the suspension in September 1939.

I wish to stress also that Florida is allowed to produce less than 1 percent of the mainland consumption of sugar. That is a very difficult thing to explain. I was raised on a farm and I know that for many years we were told and instructed by the county agents and other farm agencies to rotate our crops, to diversify them. We were told, "Do not plant so much cotton and tobacco." Cotton and tobacco are now being planted under an apportionment system, and in continental United States, apparently, more cotton and tobacco are now produced than can be consumed with the consequent effect on prices.

Sugar, however, is a nonsurplus product. In the mainland of the United States we grow less than 30 percent of what we consume. Is it not a pity that after we have diversified our crops, and inaugurated the production of sugar, which is a nonsurplus crop, we are not allowed to use the fruits of our labors? That condition cannot be explained. No one need try to explain it, because it would not be common sense to try to do so. My people are resenting the fact that, although they have spent $25,000,000 draining the richest soil on the face of the earth, soil which is anywhere from 1 to 8 feet deep, and which produces more per acre than any other in the world, for the valley of the Nile has no soil to compare with it, now they are not allowed to use the land. They undertook that development soon after the World War when they found that this country ought to begin to prepare for its own self-sustenance in any crisis.

Figure it anyway you please, Mr. President.

Cuba is allowed to ship to this country 2,000,000 tons of the 6,500,000 tons of sugar we consume. Our people will never understand—and how can they understand—why we should look so carefully after the interests of other peoples outside the United States while within a stone's throw of Cuba they themselves are not allowed to produce enough sugar to supply their own needs. I have heard the statement made that perhaps if we could float Florida down to the sea and attach it to Cuba, the farmers would have been infinitely better off than we are at this time in our efforts to produce and sell sugar and winter fruits. However, that is not the only unfavorable condition which we confront; it is only one of them. In Florida we produce winter vegetables. On the coldest days of the winter, in January and February, when ice in the north is on the ground, we can still get in the Senate restaurant, or any other restaurant, almost any kind of fresh vegetables, which are needed so badly during the winter. Where do they come from? In Florida roasting ears can be picked in December and January; strawberries are picked often at Christmas. I could name a great many other vegetables produced by Florida's winter gardens. Who are our competitors? Our competitors are those countries which are similarly located and have similar climates; and under the reciprocal-trade agreements, they are allowed to ship into the United States commodities which compete with us and we are "sold down the river."

Florida, which once had a prosperous pineapple industry, has lost it. Because we were without the proper protection and because of the cheaper methods of production in Cuba, the Cubans have taken it away from us. I understand the avocado-pear industry is going the same way, and we are apprehensive now that our sugar industry will suffer a similar fate, if it has not already gone that way.

That is the reason why we oppose the reciprocal-trade agreements on perishable farm and grove products. The people down there are trying to own and live in their own

homes. They are nearly all native Americans; and they feel that they are getting rather severe treatment, particularly when they realize that they are not allowed to produce as much of a necessary article of food as our own people themselves consume.

Mr. President, I have on the desk an amendment which I ask to have stated. It is an amendment to section 212 of the Sugar Act of 1937.

The PRESIDING OFFICER (Mr. SCHWARTZ in the chair). The amendment offered by the Senator from Florida will be stated.

The LEGISLATIVE CLERK. On page 1, immediately after the enacting clause, it is proposed to insert the following:

That section 212 of the Sugar Act of 1937 (Public, No. 414, 75th Cong., ch. 898, 1st sess.), be, and the same is hereby, amended in the following respect: By striking out the period at the end of the section and inserting in lieu thereof a semicolon, and following the semicolon the following words, to wit: "(5) Any sugar or liquid sugar produced from sugar beets or sugarcane grown within the United States upon which no application is made for conditional payments under title 3 of the Sugar Act of 1937."

Mr. ANDREWS. Mr. President, that subsection merely inserts in the Sugar Act of 1937 another proviso to the effect that any grower shall be exempt from acreage who declines to take the benefit payments; that he may grow as much cane or beet as he desires if he waives that right of benefit payments.

Some of the growers have already offered to waive that right. Each one of these amendments now offered I introduced here last spring in the Senate in the form of an amendment to the same act, and I have just brought together these three amendments. The first one covers that particular subject. Any one who waives any right he has to any benefits should be allowed, we think, to grow whatever amount of sugar he desires on whatever amount of acreage he desires. In other words, he cuts himself off from any benefits whatever. It seems to me that that is fair; and I ask that the amendment be adopted.

I ask unanimous consent to have printed in the RECORD, as part of my remarks, a statement giving the answers to certain questions.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

(1) ANSWER TO QUESTION RE BENEFIT PAYMENTS TO UNITED STATES SUGAR CORPORATION

There have been paid United States Sugar Corporation so-called benefit payments aggregating $2,750,000. Taxes for meeting benefit payments, deducted by refiner in settlements with United States Sugar Corporation, are probably far in excess of such amount; for the harvest just completed the excess of taxes over benefit payments was $183,741; and for the preceding harvest $310,150. It is interesting to here note that had we been permitted to operate at capacity the increased earnings would have been much greater than the so-called benefit payments received; I believe this condition is also true of all efficient producers other than operators of family-size farms to whom payments not in excess of $250 per annum have been suggested.

(2) ANSWER TO QUESTION RE MAXIMUM BENEFIT PAYMENTS

The benefit payments per acre of sugar beets, based upon agricultural statistics, 1939, and using the maximum payment of 60 cents per 100 pounds of sugar, would be $21.75 (12.5 tons beets per acre times 290 pounds sugar per ton of beets times 60 cents per 100 pounds sugar. See table 170, p. 126). Using the same statistical source, and maximum base, the benefits per acre of Louisiana cane would be $18.60 (21.7 tons cane sugar per acre times 148 pounds sugar per ton cane times 60 cents per 100 pounds sugar. See table 180, p. 134). It is clear from these figures that the sum of $200 will cover sugar-beet production on 9 acres and sugarcane production in Louisiana on 11 acres. It is maintained without fear of successful contradiction that such acreage is the maximum which can be maintained on a diversified family-sized farm. It is interesting to note the much greater returns available from sugar beets than from three of our major crops. The average farm value of sugar beets is $63.50 (table 170, p. 126), and so-called benefit payments aggregate an additional $21.75 per acre, or a total of $85.25; such amount is 14 times the farm value of an acre of wheat (table 1, p. 10), 6 times the farm value of an acre of corn (table 45, p. 45), and more than 4 times the farm value of an acre of cotton (table 137, p. 103).

(3) ANSWER TO QUESTION RE SUGAR-HOUSE CAPACITY

Unrestricted production means we could operate from the beginning of October through the middle of May, a total of 227 days; deducting recent percentage lost time all causes yields 218 net operating days. Clewiston can average better than 600 tons 96-degree sugar per full operating day and as Fellsmere is one-sixth the size of Clewiston we have a combined daily output of 700 tons. A harvest season of 218 net days at 700 tons per day gives an annual capacity of 152,600 tons, which we have rounded off to 152,000 tons.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. ANDREWS].

FRANCIS BIDDLE

Mr. MEAD. Mr. President, I hesitate to enter into a controversy with one of my colleagues over a matter which seemingly and on the surface does not affect me, but I was chairman of the special committee appointed by the House of Representatives to investigate the Tennessee Valley Authority, and one of the duties of the committee was to employ an attorney. In the discharge of my duties, in connection with my colleagues, we employed the services of an attorney who is now the Solicitor General of the United States.

I well remember the discussion which took place when we offered Mr. Biddle the position of attorney for the Tennessee Valley Authority investigating committee. We realized that we were employing the services of a very busy man, of a man who had a number of excellent clients, of an attorney whose income was much larger than we could hope to offer. Our committee felt that they could offer Mr. Biddle $10,000 for the task which he was to perform, assuming that he might be able to complete the task in 6 months. After our investigation got under way, and as a result of regulations and legislation, we found that we could not pay Mr. Biddle the $10,000 we had planned to pay him; so he actually worked for 10 months instead of 6 months, and he drew $7,500 instead of $10,000.

The reason why I am saying a word in Mr. Biddle's behalf today is because his service was rendered to our committee, and I was a member of the committee, and a rather serious charge has been made on the floor of the Senate about his conduct in connection with the services he rendered to the committee of which I was a member. Because of the part I played in the conduct of the committee's investigation, and in the employment of Mr. Biddle as the committee's attorney, I thought I was duty bound to make inquiry as to the accuracy of these charges.

I received a reply on yesterday. I did not want to bring it to the attention of the Senate until I had opportunity to notify my distinguished colleague who had made the charges. I found that he was not in the city, and so I carried the letter around until today. I learned that my distinguished friend is out of town today. In view of the fact that I shall perhaps be out of the city on Monday, I felt that it was entirely proper for me to have the letter read on this particular occasion. I enter this controversy in a spirit of fairness and justice, together with a degree of loyalty to one who served very well the committee of which I was a member, and also because it seems to me that my integrity and the integrity of our committee, to a degree at least, are at stake.

Before I have the letter read, and in order that my associates of the Senate may know what the charges were, let me read from the RECORD of last Wednesday:

I here solemnly charge that the present Solicitor General not once but twice has abused his official position, first as counsel for the T. V. A. investigating committee—

That, of course, is the part of the charge which involves the committee of which I was a member—

and, second, as Solicitor General, in attempts to injure and destroy a newspaper whose only afternoon rival was a paper in which Francis Biddle was financially interested. Had he succeeded he might have lined his pockets with the resulting dividends.

That is a serious charge and it must be proved to the hilt. I shall proceed to do so.

This is a statement made by my colleague from New Hampshire [Mr. BRIDGES].

Then he goes on to say:

Francis Biddle, now New Deal Solicitor General, used his position as chief counsel of the T. V. A. congressional investigating committee to attempt to destroy a newspaper which was in competition

with a second newspaper in which he was financially interested. Had he been successful his personal gain would have been substantial.

The charge goes on, and there are some rather petty references to Mr. Biddle's boyhood, his student years at college, his association in connection with the committee, and his present occupation as Solicitor General.

As I said in the beginning and as I now repeat, as one of the members of the committee who sought and secured the services of Mr. Biddle, I felt that I was duty bound to find out and to report to my colleagues of the Senate as to the accuracy of those charges. I know that the Senator from New Hampshire is enough of a sportsman to give to Mr. Biddle an opportunity to reply to the charges made by the Senator. That is in keeping with the American methods of doing business. I, therefore, send Mr. Biddle's letter to the desk and ask that it be read by the clerk.

The PRESIDING OFFICER. Without objection, the letter will be read.

The legislative clerk read the letter, as follows:

OFFICE OF THE SOLICITOR GENERAL,
Washington, D. C., October 3, 1940.

Hon. JAMES M. MEAD,
United States Senate, Washington, D. C.

DEAR JIM: You'd think that after his comic misadventures with that famous T. V. A. "jackass" about 2 years ago, Senator BRIDGES would be extremely careful to get his facts straight before jousting again on the same field. You will remember that he got stirred up over T. V. A. spending $2,500 over a "jackass"—which afterward turned out to be a mechanical jack. But either the Senator is more reckless than I supposed or his skin is thicker than anyone had suspected.

He suggests I was substantially interested in the Chattanooga News, and, for financial gain, tried to kill off that newspaper's rival, the Free Press. As usual, the Senator is misinformed. As a member of the committee, you will remember that we went down to Chattanooga late in August 1938 to investigate, under specific directions in the joint committee resolution, attempts of utility companies to block public power. It was in the course of these hearings that we uncovered the subsidizing of the Free Press by the Tennessee Electric Power Co., a Commonwealth & Southern sidiary. The evidence at the hearings showed that a citizens and taxpayers' association was formed to fight public power in the Chattanooga election, but that out of a total $22,265.45 contributed by this organization for the purpose, a cool $20,000 came from the Commonwealth & Southern subsidiary.

The Tennessee Corrupt Practices Act makes it a crime for a corporation or its officers doing business in that State to spend money toward influencing a public election; but, of course, the Commonwealth & Southern subsidiary which contributed the $20,000 was a "foreign corporation" and was therefore able to avoid the letter of the law. The other day in Seattle I commented upon this and suggested that Mr. Willkie, who only recently had resigned as president of Commonwealth & Southern, and who even more recently made some remarks about obeying the spirit of the Hatch Act, explain if he could this plain violation of the spirit of the Tennessee Corrupt Practices Act.

And now, to put Senator BRIDGES straight on the facts: In April 1939 I subscribed to 5 shares of the preferred stock of the Chattanooga News for $500—a contribution to George Fort Milton's courageous fight to maintain an independent newspaper, which was openly advocating public power, against the power-dominated press and the public utilities. This is the only investment I ever made in the paper.

This, I assume, is what Senator BRIDGES had in mind when he mentioned my heavy financial interest in the paper. As usual, he seems to be pretty foggy about the whole thing.

As for the Senator's lyrical remarks about me personally, I can only express my admiration for so gifted a public servant, and suggest that perhaps this talent is being wasted on the current Republican campaign. Certainly it is not characteristic of most of his party's statesmen.

Won't you please give him my regards along with my most earnest suggestion that next time before he turns upon me or anyone else the full power of his poetic license he get the facts straight?

Sincerely yours,

FRANCIS BIDDLE,
Solicitor General.

Mr. MEAD. Mr. President, in my judgment the letter answers the charges specifically and definitely and completely, and I feel that as a member of the Tennessee Valley Authority Investigating Committee, I am not only wholly within my right, but I am obligated to my colleagues on that committee to seek out, as I have, this reply, and to give the publicity which the charges prior to the reply had received.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. MEAD. I am glad to yield.

Mr. NORRIS. I think I should say a word while this matter is before the Senate.

I do not believe it was necessary for Mr. Biddle to reply to the charges made by the Senator from New Hampshire [Mr. BRIDGES]. If Senators will read the speech of the Senator from New Hampshire, delivered here one evening when there was practically no one present, I think they will agree with me that the language used by the Senator from New Hampshire in reference to Mr. Biddle was unbecoming any Senator, and was not language which any Senator should have used against any high official of the Government unless he had some evidence to back up what he said.

Mr. Biddle's conduct as attorney for the committee, in my judgment, has been above approach. Everyone who knows Mr. Biddle knows that he is not a pettyfogger, not a narrow-minded partisan, and if the chairman of the joint investigating committee, the Senator from Ohio [Mr. DONAHEY], were present, he would say to the Senate, I am sure, as he has often said to me since the investigation, that Francis Biddle's work for the committee was of the very highest quality, showing ability and fairness and courage, and that he thought the committee was extremely fortunate in selecting an attorney of the ability and courage of Mr. Biddle.

The Senator from New Hampshire in his language referring to Mr. Biddle was impolite, and he used language which I do not believe I would desire to repeat in reference to an honorable man on the floor of the Senate. I think it was uncalled for, and was not backed up by any evidence.

It is untrue that Mr. Biddle was dishonorable or disreputable in any way. The committee investigated the Chattanooga election, as they were specifically instructed to do by the concurrent resolution which brought them into existence, and under which they were then working. The work of Mr. Biddle will stand in the future, I think, as an example of fairness and high character.

I talked with the chairman of the committee, the Senator from Ohio [Mr. DONAHEY], who is not present in the Senate at this time, and is not in the city, and I know he has commended Mr. Biddle's work in the very highest terms. I regret exceedingly that, without any evidence to back them, the charges would be made against Francis Biddle which were made by the Senator from New Hampshire.

I intended to refer to the matter in a speech which I expected to make yesterday, and thought of making today, in reply to the Senator from New Hampshire. There were other things in the speech just as bad as the charges against Mr. Biddle. The charges he made against the New Republic were uncalled for. I think they were untrue, although they were characterized by the Senator from New Hampshire in language which was vicious, and, I think, malicious, and I expect when I make my address, as I probably will next Monday, to read a telegram from the New Republic which will show absolutely that the charges in reference to that periodical were not only unfounded, but were absolutely untrue.

Mr. MEAD. Mr. President, I merely wish to conclude by saying that the most important point to remember, so far as these charges are concerned, is the matter which comes to the mind of one who listened to the charge or read the charge that Francis Biddle, while serving the Tennessee Valley Authority investigating committee in the capacity of attorney, was financially concerned with the well-being and the success of a newspaper, and that he was using his office and that he was using agents of the Government to destroy that newspaper. The fact of the matter is that Francis Biddle, after the work of the investigating committee in the territory covered by the T. V. A. was over, after he had returned to Washington, and as late as April of last year, did what a great many patriotic and civic-minded people did, he purchased some securities, or made a contribution, in other words, so that the people of that community might have a journalistic vehicle in which to carry their side of the questions then at issue. It was only as a result of his

deep and abiding sympathy for the masses of the people, after his work was completed, that out of the goodness of his heart he made an effort, as did many others, to see to it that the people had some agency there to speak for them.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. MEAD. I yield.

Mr. McKELLAR. The Senator has known Mr. Biddle for some time?

Mr. MEAD. I have.

Mr. McKELLAR. He is from the Senator's State?

Mr. MEAD. No; he is from Pennsylvania.

Mr. McKELLAR. Did the Senator see much or little of him during the time he helped conduct the investigation for the committee referred to?

Mr. MEAD. I was with him constantly, insofar as the investigations of our committee were concerned.

Mr. McKELLAR. Did the Senator note anything about the action or conduct or words of Mr. Biddle which in any way reflected upon him?

Mr. MEAD. Oh, no. Quite the contrary; the conduct of Mr. Biddle won the applause not only of everyone who was on his side or our side or the committee's side of the question, but won the applause of those who were taking a position in opposition to the position of our committee.

Mr. McKELLAR. Was he at all times fair and just?

Mr. MEAD. He was at all times fair, and his conduct was salutary. It met the highest ethical standards. He made a tremendous sacrifice to be with us, and he served with characteristic vigor, to the edification of the committee, and to the great credit of himself as a man and as a lawyer.

NATIONAL-DEFENSE HOUSING

The PRESIDING OFFICER (Mr. SCHWARTZ in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 10412) to expedite the provision of housing in connection with national defense, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. CONNALLY. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CONNALLY, Mr. TRUMAN, and Mr. HALE conferees on the part of the Senate.

EXTENSION OF SUGAR ACT OF 1937

The Senate resumed the consideration of the bill (H. R. 9654) to extend, for an additional year, the provisions of the Sugar Act of 1937 and the taxes with respect to sugar.

Mr. ADAMS. Mr. President, I had not intended to say anything about the bill, but I have been impelled by some of the remarks of my good friend the Senator from Florida [Mr. ANDREWS] to make a suggestion or two.

We are confronted with opposing economic and political theories. The Senator from Florida has gone down both avenues. In this country, as the Senator has said—and I am in entire accord with his statement—there are certain essential things which our Nation must have available to it in its time of need. One of these essential things is sugar. As the Senator pointed out, if war comes, we need bullets first, wheat second, and then sugar.

I agree absolutely with the Senator that we should, so far as possible, stimulate the production of sugar within the continental boundaries of the United States, but the Senator then argues that we should repeal the Sugar Act of 1937, the result of which would be to undo the very thing he seeks to have done.

Florida in many ways is in an enviable position. We are told that Florida can produce sugar at 2 cents a pound. I trust that is true, and if it is true, Florida is making more profit per acre, twice over, than is made upon any other acreage in the United States, and should be very happy over its profits. Let us assume, however, that Florida has unused 30,000 acres which might be devoted to the raising of sugar. If those acres were used for that purpose, they might produce, I assume, a ton and one-half of sugar per acre, which would mean 45,000 tons extra, which added to the 60,000 tons now produced in Florida would mean something over 100,000 tons of sugar. If that could be done, it would be highly desirable, but certainly the Senate of the United States does not wish the production of an extra 45,000 tons of sugar to destroy the production of one and one-half million tons of sugar upon other acreage.

If the proposal which the Senator makes to strike down the Sugar Act of 1937 should prevail, beet sugar would cease to be produced in the United States, and instead of providing an adequate supply of domestic sugar, the United States would be limited to the sugar which can be produced in the enviable State of Florida. So from the standpoint of our wartime or our emergency necessities we would be far worse off.

I say that I am in entire accord with the Senator against the limitations which are placed upon the American farmer to produce for the American market, but the Sugar Act of 1937 was designed on the whole to stimulate production, to make it profitable. The profit to the sugar producer in the western States is today extremely small. I have the feeling that upon most acres producing sugar beets there is probably a genuine loss rather than a profit.

The Senator from Florida points out that by reason of the tariff and by reason of benefit payments, the American sugar consumer is paying perhaps $2 a year more for his sugar than he would be obliged to pay if we struck down all the bars, and the Senator says we could do much good with the $250,000,000, or $300,000,000, or $350,000,000 excess cost of sugar. As a matter of fact, under the tariff laws of this country, we have, I think, something like 2,500 items, every one of which adds to the cost paid by the American consumer. If we should repeal our tariff laws the cost of living would be greatly reduced; the only trouble is we would have nothing with which to pay even the reduced cost. We would simply put the American consumer in the position where he could not compete with the foreign cheap-labor production.

America has been placed upon a high standard of living. It has been our purpose to provide better living in this land than in other lands. But both purposes cannot be achieved at one and the same time. We cannot compete in the production of sugar with Cuba, the Philippine Islands, and the cheap-labor tropical islands, unless we have some form of legislative protection. If we should take the bars down, perhaps Florida could successfully compete, and I say that is fortunate, but there is no other section of the United States which could compete if the bars were taken down. Certainly there is not an acre that can produce beet sugar in competition with the cheap sugar of Cuba, the Philippines, and Puerto Rico.

Mr. PEPPER. Mr. President, will the Senator yield to me for a question?

Mr. ADAMS. I shall if the Senator promises that the question will not be too hard to answer.

Mr. PEPPER. I cannot pose any question which would be too difficult for the able Senator from Colorado to answer.

I should like to ask the Senator if, in connection with his just claim for protection for the beet-growing States of the Nation because they are under some difficulties in the production of sugar at a low price, he would also claim that the quota system should be used as an artificial handicap to those sections of the country which nature has particularly fitted for the production of sugar?

Mr. ADAMS. I will say to the Senator that the State from which I come is the best fitted for the production of beet sugar of any State in the Union, which is demonstrated by the fact that it produces more beet sugar than any other State.

Mr. O'MAHONEY. Mr. President, will the Senator yield?

Mr. ADAMS. I shall yield to the Senator in a moment. We do not like the limitations that are put upon us. There are thousands of acres in our State upon which we could produce sugar beets. But in consideration of the limitation

upon our production, the Government is giving to us a certain benefit payment, that is, we are being paid so much a ton in consideration of our self-restraint in the matter of production.

Prior to the passage of the 1937 Sugar Act, and its predecessor, the Costigan-Jones Act, there was no limitation, but we were confronted with the importation of tax-free sugars from the Philippines and other places that were literally destroying the beet-sugar industry. Colorado and the Western States were at the point of abandoning beet-sugar culture, because they could not meet the tropical cheap-labor production from the islands. So we were willing to submit to a limitation upon our unquestioned right to produce. We surrendered this right in consideration of payments made which would make possible the production of this product upon a moderately profitable basis.

Mr. PEPPER. Mr. President, will the Senator yield for another question?

Mr. ADAMS. Certainly.

Mr. PEPPER. If the State of Colorado, with an estimated population in 1940 of 1,118,820, was dissatisfied with an actual production quota of 262,000 short tons in the year 1939, how does the Senator think the people of Florida feel, with a population of 1,800,000, having in the same year, 1939, a quota of only 70,000 short tons of sugar?

Mr. ADAMS. Mr. President, I do not think the consideration of an economic and political question such as is involved in sugar production, can be confined to State lines. The statement that Florida is not permitted to produce its own consumption, as made by the Senator just now, or as his colleague made it, seems very persuasive. But if we believe in limitations at all, when we take the United States as a whole, we must accept either one or the other theory—either wide open, unrestricted sugarcane and sugar-beet cultivation, or some restriction. If we are to impose restrictions we cannot absolutely tie them down as the Senator would have us do.

Mr. PEPPER. Mr. President, will the Senator yield further?

Mr. ADAMS. Certainly.

Mr. PEPPER. Frankly I want to state that my position, when I address myself a little more to this question later, will not be that we should not have a quota system, or sugar regulatory legislation, but I propose as an alternative to the proposition the able Senator from Colorado has suggested of not having any quota at all, that we revise the quota system and its set-up, so that there will be certain basic principles which will be fair, which will cover the quota allocations, and which will give to every sugar-producing section in this country something like a fair share of the domestic market. On that theory I would not quarrel with the position of the Senator from Colorado that it is desirable to have sugar legislation, but I would respectfully suggest that the State of Colorado has not had its pro rata share of the allocable quota of such legislation.

Mr. ADAMS. I do not think the Senator and I differ in the matter of principle at all. We are confronted today with a very practical legislative problem. We would like to get the largest possible benefit-payment production, tariff-protected production, that we can get in the United States.

That is what we should like to get. At the same time we should like to protect the labor which is involved in refining sugar. So far as possible, we want American workmen, rather than unorganized cheap labor from the islands, to be employed in refining sugar.

Today we are confronted with a problem. Our present sugar legislation, which is unsatisfactory to the Senator from Florida and unsatisfactory to me, is better than no legislation; and if we should attempt to amend the bill today so that Florida and Colorado would receive extra quotas, we should jeopardize the possibility of any sugar legislation.

It is the old story that half of something is better than all of nothing. Our people are different from the sugar producers of Florida. We cannot produce in competition with the islands. The Senator's colleague says Florida can. We cannot. So it is absolutely essential to our sugar-beet producers that there be some form of legislative protection, in the form of either a tariff or benefit payments, or a combination, such as now exists.

We are dissatisfied with the administration of the Sugar Act. We cannot cure that situation today. We want a sugar act to go into effect so that we may come back at the next session of Congress, better the act, and improve the condition of the people of Florida and of Colorado.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida.

The amendment was rejected.

Mr. ANDREWS. Mr. President, I offer another amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Florida will be stated.

The LEGISLATIVE CLERK. On page 1, immediately after the enacting clause, it is proposed to insert the following:

That section 212 of the Sugar Act of 1937 (Public, No. 414, 75th Cong., ch. 898, 1st sess.), be, and the same is hereby, amended in the following respect: By striking out the period at the end of the section and inserting in lieu thereof a semicolon and following the semicolon the following words, to wit: "(5) any sugar or liquid sugar produced from sugar beets or sugarcane grown within the continental United States upon which no application is made for conditional payments under title 3 of the Sugar Act of 1937."

Mr. ANDREWS. Mr. President, this amendment is confined to continental United States.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. ANDREWS].

The amendment was rejected.

Mr. ANDREWS. Mr. President, I offer another amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Florida will be stated.

The LEGISLATIVE CLERK. On page 1, immediately after the enacting clause, it is proposed to insert the following:

That the last sentence of subsection (a) of section 204 of the Sugar Act of 1937 is amended to read as follows: "If the Secretary finds that the Commonwealth of the Philippine Islands will be unable to market the quota for such area for the calendar year then current, he shall increase the quota for the mainland cane area by an amount of sugar equal to the deficit so determined: *Provided, however,* That the quota for any domestic area, the Commonwealth of the Philippine Islands, or Cuba or other foreign countries, shall not be reduced by reason of any determination made pursuant to the provisions of this subsection."

Mr. ANDREWS. Mr. President, this amendment would take effect in the event conditions should prevent the Philippine Islands from furnishing their portion of the sugar which has been allotted to them. I have tried to take care of that contingency. If that situation shall arise and shall not be taken care of, I shall bring up the matter again, because the condition is certainly facing us now.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. ANDREWS].

The amendment was rejected.

Mr. PEPPER. Mr. President, I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Florida will be stated.

The LEGISLATIVE CLERK. At the proper place in the bill it is proposed to insert the following:

The shares of the various areas in the total consumption in section 202 of the 1937 Sugar Act shall be so adjusted by the Secretary as to give the State of Florida an increased marketing quota of 50,000 tons.

Mr. PEPPER. Mr. President, we have had a good many conferences from time to time and have had a considerable amount of discussion on the floor of the Senate as to what could be done to equalize the distribution of the allocable sugar quota among the States of the Union. As I intimated in what I said to the able Senator from Colorado, I do not propose to try to prevent the passage of legislation which might protect the growing and processing of sugar in the United States. But, as I indicated to the Senator from Colorado, I believe that anyone who examines the quota which has been allocated to

Florida in the light of the ability of the State of Florida to produce sugar at an economical rate will come to the conclusion that Florida does not have a fair share of the domestic production.

We all know that the Jones-Costigan Act made certain provisions for the protection of producers of sugar in the United States. That act, becoming effective in 1934, was succeeded by the act of 1937. By the year 1937 the mainland cane area, in the very nature of things, was engaged in the production of a quantity of sugarcane which so appealed to the justice of the Congress that it voluntarily awarded 160,000 additional quota tons to that area from the offshore area and the domestic area of the United States.

The adjustment of the distribution of the quota available to the domestic area was attributable to recognition of the fact that Florida did not have a fair share of the quota. The beet area had not been able to produce its quota, and the offshore area was considered to be producing more than it might fairly be given the right to produce in view of the situation in the cane area. Louisiana had been engaged in the production of cane for more than a century. When the sugar quotas were first established it was under a physical impairment of its ability to produce on account of the presence of a disease. Everybody recognized that it was not fair to Louisiana to be held to a quota based upon what it was able to produce and was producing at a time when its industry was suffering from a disease. Therefore it was felt that consideration was due the State of Louisiana.

Everyone recognized also that the State of Florida was uniquely qualified for the production of sugarcane. Vast acres of rich muckland, level and accessible, were perhaps the ideal area of the country for the production of sugarcane at a low price. Enterprising producers had gone into that area and set up efficient machinery and an efficient system of production which made it possible for sugar to be produced in the Everglades of Florida more cheaply than in any other part of the United States, and at a rate even comparable to that of the offshore areas, which had a cheaper labor rate than the domestic area. So, out of a sense of fair play, it was recognized that that State was entitled to a larger quota than it had had, because it was a new State in the sugar business. So, as I say, 160,000 tons of sugar were taken from other areas, both offshore and domestic, and given to the mainland sugarcane area.

Mr. ELLENDER. Mr. President, will the Senator yield at that point?

Mr. PEPPER. I yield.

Mr. ELLENDER. Mr. President, section 202 (a) of the act provides:

(a) For domestic sugar-producing areas by prorating among such areas 55.59 percent of such amount of sugar (but not less than 3,715,000 short tons) on the following basis:

Sugar produced from the domestic sugar-producing areas must be apportioned as follows: To domestic beet-sugar producers, 41.72 percent; to mainland cane-sugar producers, 11.31 percent; to Hawaii, 25.25 percent; to Puerto Rico, 21.48 percent; and to the Virgin Islands .24 percent. In view of the fact that the percentages are fixed by the act itself, where does the Senator from Florida expect to obtain the 50,000 tons of sugar which he proposes to allocate to Florida?

Mr. PEPPER. The amendment clearly provides that it shall be the duty of the Secretary to discover from what other areas the additional 50,000 tons might best be obtained.

Mr. ELLENDER. Mr. President——

Mr. PEPPER. I will answer in a moment. It would be up to the Secretary to determine the area or areas from which that amount of tonnage might be taken for the purpose of equalizing the deficiency which the State of Florida has in its quota.

Mr. ELLENDER. Mr. President, I wish to say that I am in thorough sympathy with the Senator from Florida. I think that both his State and my State, as well as the States producing beet sugar, should have a larger marketing quota; but, as I have just pointed out, in view of the fact that of the entire amount of sugar consumed by continental United States a certain fixed percentage is distributed among the beet-growing interests, the domestic cane producers, and the island possessions, and the remaining percentage among the Commonwealth of the Philippines and Cuba, I am wondering if it would not be necessary, in order to conform to the pending amendment, to take the 50,000 tons from the 55.59 percent of our consumption requirements that I have heretofore referred to.

Mr. PEPPER. Legally, the amendment which the junior Senator from Florida has proposed, if adopted, as I construe its legal effect, would be to authorize the Secretary to diminish the percentage allocation to any of the areas mentioned in section 202 by such a number of tons as he thought that area's quantity might be diminished in order to meet the requirements of this amendment. By the way, I should have made it clear, but I did not think there was any doubt about it, that this amendment will operate only for 1 year, because it is appended to an amendment which itself will cease to be effective at the expiration of 1 year; so it is only a 1-year amendment.

If some area should have a deficiency in meeting its quota the Secretary would be authorized to allocate it, whether it were 10,000 tons or 5,000 tons or 3,000 tons, or 40,000 tons, to offset the deficiency to Florida for this one year. If he did not find any area that had any deficiency but the production of each area reached exactly its total quota, then, under the amendment, he would have to take away proportionately from such areas a total of 50,000 tons. But the quantity is so small that it could not possibly hurt anybody in any appreciable degree.

Mr. ELLENDER. Mr. President——

Mr. PEPPER. I will yield in a moment. The advantage of that would be this: As we are going along now, even if the cane area gets an additional quota, deep as is the affection we have for our friends from Louisiana and our neighbors, we get but a relatively small part of that additional quota. I have fixed the figure at 50,000 tons because I thought that was the minimum; and a little later I will show why I think it is a minimum. If we could be pulled up just that much, I feel that in the future our relative position would be sufficiently equalized so that we would not have to talk so much about States as we would about areas.

I feel that such an adjustment must be made some time, that the justice of the Senate will some time give it to us, and I am hoping that we can start to restore to our State a relative ratio which I think is fair, along with the other States, so that we will not be so conspicuously the State which has not had a fair share of the allocable domestic quota.

Let me add that I believe that, as it will logically work out if this amendment were adopted, there would be, perhaps, a total of as much as 50,000 tons available from some area that had not produced up to its quota; so that no area would actually be cut in its intended production. I now yield to the Senator from Louisiana.

Mr. ELLENDER. According to the argument of the Senator from Florida, if a certain area does not produce its quota, then, the Secretary shall use such deficit in order to make up the 50,000 tons?

Mr. PEPPER. It is not mandatory in the amendment itself, but I am confident the Secretary would exercise his authority so as to accomplish that end.

Mr. ELLENDER. Let us assume that all the areas would produce and would ship into this country the amount fixed by the Secretary; then, under those conditions, would not the Secretary be bound to give Florida the 50,000 tons?

Mr. PEPPER. As I said a moment ago, if in the theoretical view of each one of the areas producing exactly its quota as a minimum, then, in order to accomplish the purpose of this amendment, the Secretary would have to take the 50,000 tons from the whole number of areas, and the whole quota would be reduced proportionately with regard to each area.

Mr. ELLENDER. That area would include Louisiana, the beet-sugar producing States, Hawaii, and Puerto Rico.

Mr. PEPPER. Theoretically it would include all the areas that are engaged in the production of sugar, but out of the Secretary's——

Mr. SCHWELLENBACH. Mr. President, will the Senator yield?

Mr. PEPPER. I will yield in a moment. But out of the Secretary's vast knowledge on the subject, I am confident that none of that quota would be taken from the cane-growing State of Louisiana, although that would be legally possible under this amendment. I am confident, however, in view of what the Secretary has done in the past, in view of his knowledge of the subject, and in view of the fact that Louisiana is comparable to Florida in its entitlement to additional quota, that it would not actually work out that way. However, the only thing that I thought we could do fairly was to vest the discretion in the Secretary, with the consciousness and the confidence that the Secretary would use the authority so as not to do an injustice to anybody to try to equalize a rather bad local situation. I now yield to the Senator from Washington.

Mr. SCHWELLENBACH. Mr. President, upon what fact does the Senator base his belief that there is a possibility that some of the outside points will not produce their quota?

Mr. PEPPER. The chief fact upon which I base it is that in times past there has been a freeze or a drought, or some other weather disturbance which has interfered with the natural processes of production, so as to cause one area or another to be short of its quota in its actual production.

Mr. ANDREWS. Such as dust storms.

Mr. PEPPER. Yes. For example, until 1937 or 1938 the entire beet area—and I think the Senator from Colorado will affirm my statement—was a little behind in its production.

Mr. ADAMS. We have a drought condition there from which we have not entirely recovered as yet.

Mr. PEPPER. While in Florida, reluctant as my colleague and I are to admit that the weather ever gets cold in our balmy and fair State, we actually had a cold spell in the year 1938 that was serious enough, if it had occurred in any other State, to have been a freeze.

Mr. SCHWELLENBACH. Mr. President, will the Senator yield there?

Mr. PEPPER. I will yield in a moment. Either one of those conditions may be repeated. Some of the offshore areas have been behind in the production of their quota on several different occasions; and I feel that there is a possibility that that condition will recur. I now yield to the Senator from Washington.

Mr. SCHWELLENBACH. I inquire at just what point in the thermometer does a freeze come in Florida? Is it different from other places?

Mr. PEPPER. The different chambers of commerce have different standards. When there is a freeze the weatherman is always sympathetic to us, so that seldom, if ever, as a historical fact is there an actual freeze in Florida, if I may reply technically to my able friend from Washington.

Mr. President, what are some of the facts that lead me to try to get a larger quota for the State of Florida?

Mr. WHEELER. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. WHEELER. I may say that the people of my State are, of course, extremely anxious to get a larger quota. We have in Montana a great deal of irrigated land, and practically the only profitable crop which, under ordinary circumstances, can be grown on that land is sugar beets, but we realize that in order to get this legislation through we cannot attempt at this particular time to get an amendment to the act providing for a larger quota for Montana.

As I understand—and I want to know if I am not correct—what it is proposed to do is to pass this bill at this time, and then come back at the next session of Congress with the idea of rewriting the whole sugar law.

It is extremely difficult for the people of Montana and the people of other western States to understand why the administration sets up quotas for Cuba and for other countries in order to protect them, when the people of the Western States themselves—our own people—are going hungry, and need to plant bigger crops in order to make a living. It is impossible to explain that course satisfactorily to the people of my State; and I am sure there is similar difficulty in Colorado and in Utah and in the other Western States. So we are just as anxious as is the Senator from Florida to have larger quotas for the territotry embraced in the United States itself.

Mr. PEPPER. Mr. President, I appreciate how the able Senator from Montana feels about the matter, and how the Senators from the other States feel about it; but I hope they will allow me to present these comparisons between other States engaged principally in beet-sugar production and the State of Florida.

First, under the Jones-Costigan Act the total benefit payments were as follows:

The mainland cane area, $11,967,000. Of that sum of money Louisiana got $10,573,000, and Florida $1,394,000. Domestic beet area, $31,650,000. Hawaii got $13,324,000; Puerto Rico, $14,573,000; or a total for all areas of $71,514,000.

Under the Sugar Act of 1937, through the 1939 crop, not including the 1940 crop, the benefit payments were as follows:

Mainland cane area, $17,215,000, of which Louisiana got $15,387,000 and Florida $1,828,000. Domestic beet area, $60,922,000. Hawaii got $21,743,000, and Puerto Rico $28,963,000.

Total to date under the Sugar Act of 1937, $128,843,000.

Mr. President, let me digress long enough to reiterate that out of total payments of $128,843,000 under the 1937 act, the State of Florida got $1,828,000.

Grand totals under both acts, mainland cane area, $29,182,000; Louisiana, $25,960,000; Florida, $3,222,000. Beet area, $92,572,000; Hawaii, $35,067,000; Puerto Rico, $43,536,000.

Grand total of benefit payments under both acts, $200,357,000.

Again let me particularize that out of total benefit payments of $200,357,000 since the Jones-Costigan Act became a law the State of Florida got $3,222,000.

Now let me make another comparison. This is by production instead of benefit payments.

The principal States of the Union engaged in the production of beet sugar are Ohio, Michigan, Nebraska, Montana, Idaho, Wyoming, Colorado, Utah, and California. There are eight additional States which are generally grouped under one head.

Now let us make a comparison of the average number of short tons of refined sugar which have been produced in those States for the years 1928 to 1937, for the year 1938, for the year 1939, the population of each State, and the square miles of area in each State, and make the same comparisons including the State of Florida.

We find that the State of Ohio, engaged in beet production, average for 1928–37, 29,000 tons; 1938, 43,000 tons; 1939, 42,000 tons. Population, 6,889,623. Square miles, 40,740.

The State of Michigan: Average for 1928–37, 107,000 tons; 1938, 171,000 tons; 1939, 162,000 tons. Population, 5,245,012. Square miles of area, 57,480.

I will say that all this information is furnished by the Sugar Section of the Department of Agriculture except the square miles of area, and that is obtained from the World Almanac.

Nebraska: Average, 118,000 tons for the period 1928–37; 135,000 tons for 1938; 106,000 tons for 1939. Population, 1,313,468. These population estimates are from the Census Bureau and are the preliminary estimates of the 1940 census. Square miles, 76,808.

Montana: 1928–37 average, 89,000 tons; 1938, 142,000 tons; 1939, 140,000 tons. Population, 554,136. Area in square miles, 146,131.

Idaho: Average, 1928–37, 79,000 tons; 1938, 143,000 tons; 1939, 127,000 tons. Population, 523,440. Area in square miles, 83,354.

Wyoming: Average, 1928–37, 85,000 tons; 1938, 106,000 tons; 1939, 92,000 tons. Population, 246,763. Area in square miles, 97,548.

Colorado: 1928–37 average, 339,000 tons; 1938, 309,000 tons; 1939, 262,000 tons. Population, 1,118,820. Area in square miles, 103,658.

Utah: Average, 1928–37, 86,000 tons; 1938, 111,000 tons; 1939, 100,000 tons. Population, 548,393. Area in square miles, 82,184.

California: Average, 1928–37, 208,000 tons; 1938, 337,000 tons; 1939, 451,000 tons. I have not here the figures of the population, but I believe it is something over 6,000,000, according to the last census. I have the population according to the 1920 census. It was then 3,426,000. California's increase this time is 22 percent. In square miles, its area is 155,652.

The other eight States, considered as one unit: Average for the years 1928–37, 98,000 tons; 1938, 188,000 tons; 1939, 159,000 tons. I have not calculated the population and area of those States. If an average were struck, there would be some 20,000 tons per State for the eight States.

Louisiana for the year 1939 had 437,000 tons, and has a population of 2,360,661, and an area in square miles of 45,409.

Florida for the year 1934 had 28,000 tons; 1935, 42,000 tons; 1936, 51,000 tons; 1937, 57,000 tons; 1938, our peak year, 92,000 tons; 1939, 70,000 tons.

The population of Florida is 1,800,000, according to the preliminary estimate of the 1940 census, and its area is 54,861 miles.

Mr. President, it will be noticed from these comparisons, leaving out its peculiar fitness for the production of sugar, that neither on the basis of area nor population has the State of Florida received anything like the average the domestic producing States have received in the allocation of sugar quotas.

It is said that the reason why that is true is that Florida was somewhat late in coming into the business of sugar production. It was somewhat late, although the first successful sugar mill in the State on a large scale was functioning as early as 1929, and it has continued to grow in efficiency since that time and in quantity, as much, generally, as the law would allow.

Here is this vast acreage, adapted peculiarly—as no one will deny—I believe better than any other State in the Union, to the production of sugarcane, a crop which is not produced in sufficient quantity upon our domestic territory. Yet that State is permitted to grow a quantity far less than it should be permitted to grow, taking into consideration its area and population as compared with the other sugar-producing States of the Nation.

When is that wrong to be corrected? We raised the same point here in 1937, because the senior Senator from Florida [Mr. ANDREWS] and I were both Members of the Senate at the time when the 1937 sugar law was passed. There was an additional quota allocated to the mainland area, but allocated in the proportion in which we and Louisiana, for example, had been producing sugar in the past.

I am not opposed to the principle of sugar legislation with a quota as a part of the system. Once we accept the principle of benefit payments, we have to have a quota system, or no government will pay benefit payments. So I realize that the first step is the benefit payment, and I am not opposed to that. I want to see the beet States add their productive power to the capacity of this Nation to produce sugar. I want to see the farmers—and most of them are small farmers, and I commend them most heartily—continue to grow sugar to meet the needs of this great and growing Nation. I want sugar to be one of the staple crops of our agriculture, and I want the farmers encouraged, instead of discouraged. But if we accept the premise of the benefit payment, and the corollary of the quota system, that in turn has made it necessary to adopt the quota system founded upon the historical base. The viciousness of the thing is not in the benefit payment principle and not in the quota system, but the overemphasis on the historic base, and that is the point about which we complain.

My position is today not one of complaining against the passage of the bill. I want to see it passed. I am not complaining against benefit payments. I want to see them continued, in order to benefit the whole economy of America. But the system as it is now fixed has simply frozen the productive power of the State of Florida into a cavity which is less than our deserts, and that is what I am complaining about.

If we came in and said, "We are not interested in the other States, we do not care whether they get any quota or not, we are thinking only of Florida," and anyone was able to point out that Florida had been already generously dealt with, that according to area and population and ability to produce sugar we had our fair share, I would not have the countenance to come here and ask the Senate to grant any such request as I am making; but I do not believe there is a Senator on this floor who would assert, if this matter were being handled de novo, and we were basing the allocation of quotas upon ability to produce, and area and population, and any other standard that is fair in the determination of such quotas, that Florida was not entitled to a larger quota than 70,000 tons for the year 1939, with its population of 1,800,000 and its land mileage area of over 55,000 miles.

I presume that the House would readily concur in such an amendment, because I have seen evidences myself that the House Members were friendly to Florida's situation. I believe, therefore, that fairness and justice, and the desire to adopt a fair principle would move the House to concur in such an amendment as this. If that is done, the representatives of Florida would not come here every time a sugar bill was mentioned, under the embarrassment of having to assert just Florida's claim. We want to come in with our sister State of Louisiana, and our neighboring States to the west, and say, "Let us get a larger quota for the domestic area of the United States, and let us consider this as a national problem, and not a local problem."

Someone says, "Let us wait until next year and we will do that." We did not do it in 1937 and it has not been done since, and 3 years have passed. And now they ask us to let another year pass, and say that they will take it up next year. We are in this situation: There are but two of us, the senior Senator from Florida [Mr. ANDREWS] and I, and we have but two humble votes. There are some 12 or 15 States which are engaged in the production of beet sugar, and we have one fine neighbor State engaged in the production of cane sugar. So we have no power to coerce our colleagues into giving us fair consideration. We have nothing but the claim of justice and fairness upon which we may rely.

We do not come in making a demand upon anyone, and we are not going to try to delay the passage of the measure before us. We are not going to try to obstruct this proposal, or embarrass it by encumbering it. We are just asking that for the period of 1 year only; we may have something like parity.

If my amendment were adopted, we would have only about 120,000 tons, and that would be exceeded by Michigan, Montana, Wyoming, over doubled by Colorado, nearly equaled by Utah, four times exceeded by California, one and three-quarters times exceeded by the other very small States which are engaged in only a small way in the production of sugar.

Mr. President, that is how we stand. I believe that if we could once establish any such fair parity as we propose, it would thereafter be recognized that there was something like a fair ratio between what we were permitted to produce and what the other States were permitted to produce.

I have another amendment on a purely local matter, but without detaining the Senate further, and without adding anything more than these simple facts, addressed to the sense of fairness of the Senate, I sincerely hope that the amendment for this 1-year period will be agreed to.

NICHOLAS MURRAY BUTLER AND INVOLVEMENT OF THE UNITED STATES IN WAR

Mr. CLARK of Missouri. Mr. President, I do not desire to detain the Senate on another matter while it is considering

the sugar bill, but a thing happened yesterday which seems to me of such importance, as setting a widespread precedent in connection with the educational system of the United States, that I do not think a day should be allowed to pass without its being called to the attention of the Senate and of the country.

Yesterday, according to the New York Herald Tribune of today, which I have before me, that famous reactionary, both in education and politics, Dr. Nicholas Murray Butler, president of Columbia University, called together what is described even in the New York Herald Tribune as an absolutely unprecedented general assembly of the university faculties, and there attempted, possibly with success, probably with success, but I hope without success, to coerce the members of the faculties of the great Columbia University into being willing to inculcate in the minds of the students his own ideas in favor of participation by the United States in the present war.

The Herald Tribune says:

Dr. Nicholas Murray Butler, president of Columbia University, speaking yesterday before an unprecedented general assembly of the university faculties said that there could be no doubt where the university stood in "the war between beasts and human beings," and warned that those whose convictions were in open conflict with the university's doctrines should, "in ordinary self-respect," resign their faculty positions.

Mr. President, I believe that never before in the long history of the struggle in the United States for academic freedom has so blatant, so outrageous, so arrogant a proposition ever been put to the faculty of any American college or university.

I ask that the whole article appearing in the Herald Tribune today to be printed in the RECORD at the conclusion of my remarks, as I wish to quote from it from time to time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CLARK of Missouri. This is a naked proposition by the president of the university asserting in effect that, "In a war between foreign powers, on questions involving the foreign policy of the United States, it is I—I, Nicholas Murray Butler"—God save the mark!—"representing the donees, representing the contributors to the foundation of this university, who says to you that if you do not agree with me that the United States ought to get into this war, if you do not agree with me, representing the university, that the United States should become involved in this conflict, then I say to you that you ought to resign, because you will be fired anyway."

Mr. HOLT. Mr. President, will the Senator yield?

Mr. CLARK of Missouri. I yield.

Mr. HOLT. I want the Senator to know that he did not say that we would get into it. He said, "We are involved, and have been from the beginning." That is the direct quote from his remarks. In other words, he said, "We are in the war, and Columbia University has enlisted for the duration of the war."

Mr. CLARK of Missouri. I thank the Senator for that suggestion.

The proposal now is, Mr. President, that if any of the instructors, or any of the associate professors, or any of the assistant professors, or any of the professors in this great institution, possibly the largest educational institution in the United States, are unwilling to follow Dr. Butler in his assumption that we are already in the war, and that we ought to get farther in, that in all decency and self-respect, as he says, they ought to resign.

Mr. President, that is an entirely new departure in American education. We have seen instances before of attempts being made to coerce the instructors or faculty members which have usually been denied by those who are accused of being guilty, but this is the first time in the history of American education, so far as I am advised, that the head of a great educational institution stands up and says, in effect, to his instructors, a multitude of instructors in that great institution, "Unless you try to create propaganda in the minds of your students for getting us into the war, or getting us further into the war, you will lose your jobs."

Mr. President, there has been a great struggle in this country over questions of much less importance than this by the Association for the Advancement of Academic Freedom, or whatever the correct name of the association is. They never had a question like this presented to them, and I suggest that this more nearly concerns the welfare of American education, more nearly concerns the violations of civil liberty which have been investigated by the committee under the very able chairmanship of the senior Senator from Wisconsin [Mr. LA FOLLETTE], than any question that has been presented in the lifetime of any of us. No such brazen, no such outrageous proposition has never been advanced to the faculty of any educational institution, great or small, as that which was advanced yesterday by this old, senile, reactionary president of Columbia University, who for many years disgraced that institution by mixing up the activities of the president of a great institution with the activities of a pot-house Republican politician.

Mr. HOLT. Mr. President, will the Senator yield?

Mr. CLARK of Missouri. I yield.

Mr. HOLT. I want the Senator to know that it is not unexpected to have President Butler do that. I hold here in my hand the proceedings of the annual meeting of members of the Pilgrims at the Bankers Club of America, held in New York, at which the following occurred:

President BUTLER: Gentlemen, I offer the loyal toast of the Pilgrims to the President of the United States. * * * Toast to the President of the United States. * * *

President BUTLER: To his Majesty, the King. * * * Toast to the King of England. * * *

That was offered by President Butler at the Pilgrims' Club. I simply wish the Senator to know what he has just stated as having come from Dr. Butler is not unexpected, when he and other United States citizens, meeting in New York, sit down annually—at a banquet—and offer a toast to the King of England.

Mr. President, they have forgotten that we had a revolution in this country. I wanted the Senator to know that President Butler was an official of the Pilgrims' Club when the United States entered the war, and that club wired the Pilgrims' Club of London saying "At last the Union Jack and the Stars and Stripes are nailed to the same staff" and then "The Pilgrims' dream of 15 years at length has come to pass." President Butler did not sign that message, but he was an official of the club which sent the cablegram at that time.

I simply wanted the Senator to know that President Butler is the arch British propagandist in the school system of America, and has been awarded a number of honorary degrees from English schools. I just happened to make note of a few of them, if the Senator does not mind my setting them forth, with some other data.

Mr. CLARK of Missouri. I yield to the Senator for that purpose.

Mr. HOLT. He has been trustee of the Carnegie Foundation since 1905; trustee of the Carnegie Endowment for International Peace, 1910, president since 1925; trustee Carnegie Corporation since 1925, chairman 1937; honorary doctor of literature, Oxford, 1905; honorary doctor of laws, Cambridge, St. Andrews, Manchester, and Glasgow. I also note these references: Vice president Pilgrims 1913–28, president since 1928; honorary member of the Worshipful Co. of Stationers and Newspaper Makers, London, 1934.

I do not know what that means—honorary member of the Worshipful Co. of Stationers and Newspaper Makers, London. I do not know what society that is. However, he is an honorary member of that society.

He is also a member of the British Institute of Philosophy, 1935.

I simply wanted the Senator to know something of Dr. Butler's background.

Mr. President, if the Senator from Missouri does not object, I should like to place certain exhibits in the RECORD at the conclusion of the speech of the Senator from Missouri to

show what this pro-British propagandist has done. I ask unanimous consent to place the matter to which I referred in the RECORD at the conclusion of the Senator's speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLT. Mr. President, I wish to ask the Senator, while we are speaking of propaganda, where his resolution to investigate propaganda is?

Mr. CLARK of Missouri. It is still in statu quo. I do not know whether the Senator from West Virginia understands what statu quo means.

Mr. HOLT. No; I should like to have the Senator tell me.

Mr. CLARK of Missouri. The old story was that during the Russo-Japanese War many years ago the newspapers came out with the statement that General Kuropatkin was in statu quo. A number of old fellows were sitting around in the village store reading the newspapers and they saw this reference to the general being in statu quo. They asked the village wise man—and there is always a wise man in every little town, as Senators know—"What does that mean?" Of course, he himself did not know, but he did not want the boys to know that he did not know, so he said, "Boys, statu quo means in a hell of a fix." [Laughter.]

So my resolution is in statu quo.

Mr. President, with reference to what the Senator from West Virginia said, let me say that I do not care three whoops from what English or Scottish universities Dr. Butler has received honorary degrees. I do not care whether he is an honorary member of the Stationers' and Newspaper Makers' Association, or whatever it is in England. Everyone has known Dr. Butler for many years as a professional propagandist in this country. Everyone has known him on the other side, as I said a moment ago, as a pot-house Republican politician, because he has combined both activities, and those activities are not new.

They are not of any importance to the American people. But I say, Mr. President, that when the president of possibly the largest American university gets up and makes a speech to the faculty assembled in unprecedented extraordinary session, and tells them to put into execution his ideas for American participation in a foreign war on peril of losing their jobs, and commands them to put out that sort of propaganda to the students entrusted in their care, it is a matter of very grave concern to the American people, because that means that we are polluting the American Nation at its very source. When university professors, university instructors, no matter what they may believe, are required to teach their students that we are already in a war, and that we should get further in, that means that the Americans Nation is being polluted at its very source. I say better men than Dr. Butler have been tried for treason and hung for treason.

Mr. HOLT. Mr. President, does not the Senator feel that this is just one of the early signs of war hysteria, which means the destruction of freedom and liberty in this country?

Mr. CLARK of Missouri. I would not say it was a very early sign. I would say it was a comparatively late sign, if the Senator will permit me. Such a speech as Dr. Butler made yesterday, in absolute contravention of the Bill of Rights of the United States, is getting pretty far along toward destruction of freedom and liberty in this country.

Mr. HOLT. Will the Senator let me read what Sir Gilbert Parker said?

The PRESIDING OFFICER. The Senator from West Virginia should address the Chair.

Mr. HOLT. Mr. President, will the Senator from Missouri yield for me to read what Sir Gilbert Parker said?

Mr. CLARK or Missouri. I shall be very glad to yield for that purpose.

Mr. HOLT. Sir Gilbert Parker said:

> We established association by personal correspondence with influential and eminent people of every profession in the United States, beginning with university and college presidents, professors, and scientific men and running through all ranges of population.

That was what Sir Gilbert Parker said was done preceding the World War; and that is what the William Allen White Committee is doing in the present instance, to involve us in this war.

Mr. CLARK of Missouri. I can say to the Senator from West Virginia that the disclosures after we had entered the war—what I might call the confessions—of Sir Gilbert Parker, who was the head of the propaganda agencies of the British Empire, as to what was done before we got into the last war, were the basis of the resolution to which the Senator referred a moment ago, for investigating all propaganda. As I say, the resolution was unanimously favorably reported from the Committee on Foreign Relations, and has now been stifled in the committee on Audit and Control for 5 or 6 months.

Mr. HOLT. Does the Senator's information check with mine, that Nicholas Murray Butler was the man who made an appointment for Sir George Paish to see the President of the United States?

Mr. CLARK of Missouri. I have no information about that.

Mr. HOLT. I think the record will so show.

Mr. CLARK of Missouri. I am not in the confidence of either Sir George or Dr. Butler.

Mr. President, I renew my request that the entire Herald Tribune article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DR. BUTLER TELLS COLUMBIA STAFF TO ACCEPT WAR POLICY OR RESIGN—PRESIDENT WARNS UNPRECEDENTED CONVOCATION: "LET THERE BE NO DOUBT WHERE UNIVERSITY STANDS IN WAR BETWEEN BEASTS AND HUMAN BEINGS"

Dr. Nicholas Murray Butler, president of Columbia University, speaking yesterday before an unprecedented general assembly of the university faculties, said that there could be no doubt where the university stood in "the war between beasts and human beings," and warned that those whose convictions were in open conflict with the university's doctrines should, "in ordinary self-respect," resign their faculty positions.

Declaring that academic freedom could apply only to "accomplished scholars," Dr. Butler said it was the duty of these scholars to guide public opinion "into paths of reason, of reflection, and of understanding."

He warned that the Nation was confronted by emotional outbursts "which are quite hysterical in character and which lead to acts of utmost cruelty and violence."

"It is the very essence of our national defense," he said, "that our people as a whole shall understand what it is which they are defending, and that they have this presented to them with calmness, good judgment, and full knowledge. In this regard the responsibility of each one of us is very great. We must not ourselves be misled by phrases and formulas, and we must do our best to keep others from being so misled."

The present war, he continued, was not merely a conflict of political and economic doctrines.

"Underneath and behind the war of lust for gain and for domination over one's fellow men there lies the war between beasts and human beings, brutal force and kindly helpfulness, between the spirit of gain at any cost and the spirit of service built upon common sense and moral principle. Let there be no doubt where Columbia University stands in this war."

Dr. Butler's discussion of academic freedom was outlined in the identical words of his 1935 report to the trustees. To this he added his warning to members of the faculty whose ideas might conflict with the university's:

"Those whose convictions are of such a character as to bring their conduct in open conflict with the university's freedom to go its way toward its lofty aim should, in ordinary self-respect, withdraw of their own accord from university membership in order that their conduct may be freed from the limitations which university membership naturally and necessarily puts upon it," he said.

"No reasonable person would insist upon remaining a member of a church, for instance, who spent his time in publicly denouncing its principles and doctrines."

The reaction to the speech was one of caution. Professors long identified as defenders of academic freedom said they wanted more time to study Dr. Butler's remarks.

Some were "disturbed" by Dr. Butler's assertion that academic freedom, which he defined as freedom of thought and inquiry and of teaching, could apply only to accomplished scholars. They wondered just what "accomplished scholar" meant.

QUESTION "UNIVERSITY FREEDOM"

Another point that jarred some of the faculty was Dr. Butler's insistence that "university freedom is as important as academic freedom." They insisted that the freedom of the individual student and teacher was a good deal more important than university prestige.

Particularly significant, in the opinion of faculty members, were these paragraphs which Dr. Butler drew from his 1935 report:

"Of course, academic freedom has never meant and could not possibly mean in any land the privilege—much less the right—to use prestige, the authority, and the influence of a university

relationship to undermine or tear down the foundations of principle and of practice upon which alone that university itself can rest.

"Before and above academic freedom of any kind or sort comes this university freedom which is the right and obligation of the university itself to pursue its high ideals unhampered and unembarrassed by conduct on the part of any of its members which tends to damage its reputation, to lessen its influence or to lower its authority as a center of sound learning and of moral teaching."

DEANS PRAISE STAND

The deans praised Dr. Butler's speech.

Dr. Virginia C. Gildersleeve, dean of Barnard College, thought that the president's remarks were "safe, sound, true, and interesting."

Dr. Herbert E. Hawkes, dean of Columbia College, said "I think the talk was very appropriate in informing the faculty of Columbia's relation to national defense plans."

Dr. George B. Pegram, dean of the Graduate Faculties, said he "had no misgivings" over the application of Dr. Butler's views.

The assembly was the first of its kind ever held at Columbia at which attendance was restricted to members of the faculties.

Dr. Butler prefaced his views on academic freedom with a review of Columbia's cooperation in national defense activities. His purpose in calling the assembly was to suggest ways to further this cooperation, he said.

Recalling the creation last July of a university committee on national defense, Dr. Butler reported that this committee had already submitted its first report.

It was fortunate, he said, that the Government planned the least possible disturbance of the teaching and research work of the colleges and universities in pushing its defense program.

For those called into full military service the trustees and faculties are prepared to be generous and abundant in understanding in regard to their individual problems, Dr. Butler said.

It will be the policy of the university to grant leave of absence without salary to university officers who are called, he revealed.

Dr. Butler said he would recommend to the trustees that in order to protect the retiring allowances of officers called to service the university should meet the 5 percent contributions called for in their contracts with the Teachers Insurance and Annuity Association.

Students conscripted under the draft law will be granted a leave of absence and will incur no loss of tuition fees, Dr. Butler said.

He announced again an academic holiday on Wednesday, October 16, so that the 3,000 to 4,000 students of draft age would have an opportunity to register for selective service.

REVIEWS DEFENSE COURSES

Dr. Butler reviewed the special courses arranged at Columbia by the committee on national defense. These courses include a unit for the training of air pilots under the Civil Aeronautics Board and a course in military engineering.

In addition, Dr. Butler said he hoped that a Marine Corps Reserve training unit would soon be organized, involving one night a week during the academic year and training at Camp Columbia, Lake Bantam, Conn., for two periods of 6 weeks each after the sophomore and junior years. It was also likely that Naval Reserve courses would be created at Columbia by the Navy Department, he added.

Dr. Butler urged the faculty members to maintain their faith in a program of world reconstruction.

"It will not do," he said, "to sit helplessly by and content ourselves with saying that no reconstruction is possible, that civilization is on its way to death and that the world as we and our ancestors have known it can never be restored.

"The temptation to that point of view and that attitude is certainly very great, but it is a temptation to which we simply must not yield. It would not be characteristic of us as American scholars to lose our faith, our hope, and our confidence in the ability of mankind to bring ultimate victory to moral principle and the spirit of service over the mad and cruel lust for gain and for power; for that is the essential struggle underneath and behind the economic war."

NINETEEN HUNDRED AND SEVENTEEN REPORT RECALLED

Dr. Butler's remarks on academic freedom recalled his annual report of December 1917 in which he warned against the menace of "academic Bolsheviki." At that time he said:

"When a teacher accepts an invitation to become a member of an academic society he thereupon loses some of the freedom that he formerly possessed. He remains, as before, subject to the restrictions and punishments of the law; but in addition he has voluntarily accepted the restrictions put upon him by the traditions, the organization, and the purposes of the institution with which he has been associated."

The campus had seethed with controversy 2 months earlier when two professors, James McKeen Cattel and Henry Wadsworth Longfellow Dana were dismissed from the faculty because their attitude toward war plans was doing "grave injustice" to the institution.

A week after the dismissal action, Dr. Charles A. Beard, dean of America's historians, resigned from the Columbia faculty, calling the university trustees "reactionary and visionless in politics" and "narrow and medieval in religion." In his letter of resignation to Dr. Butler he wrote of professors who held their positions "literally by the day" and who were liable to dismissal "without a hearing, without the judgment of their colleagues who are their real peers."

Mr. CLARK of Missouri subsequently said: Mr. President, inasmuch as I included in the RECORD at the conclusion of my remarks a short time ago a newspaper account of President Butler's remarks, I now ask unanimous consent to include also at the same place in the RECORD the verbatim account of President Butler's remarks as printed in the New York Times of today, so that there may be no dispute as to what President Butler said.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[From the New York Times of October 4, 1940]

DR. BUTLER'S ADDRESS TO THE COLUMBIA FACULTIES

Following is the text of the address by Dr. Nicholas Murray Butler, president of Columbia University, on Columbia University in This World Crisis, given yesterday before an assembly of the Columbia faculties:

"At the opening of this new academic year it is of high importance that we examine and reflect upon the problems which face Columbia University in view of the world crisis which is shaking our historic civilization to its foundations. Our university, founded nearly 200 years ago as a simple American college, has become with the passing years a powerful public servant in the field of liberty. It has responded to the opportunities and ideals of historic university development, and its place in the intellectual life of the world and in the shaping of public policies, national and international, is now well established.

"Because of the present World War, primarily economic but now violently and brutally military as well, this institution at work in the field of liberty is called upon to cooperate with government. The purpose of this cooperation is to strengthen the defenses of our American system of economic, social, and political liberty, and to defend them and the republican form of government built upon them from attack having its origin either without or within our own country.

"This cooperation with government is a service which Columbia has always been willing and quick to offer. The greatest names on its roll became famous through leadership and service in this field of action. Today, as Columbia approaches the end of its second century of corporate life, it will not be found wanting in this endeavor.

"WE ARE INVOLVED

"The appalling war which has now in its grasp practically the whole of Europe and a great part of Asia and of Africa as well has brought the United States of America face to face with an emergency such as it has never hitherto known. We hope and pray that it may not be our lot to have to take part in the military struggle which is going on, but we are involved and have been from the beginning, in the economic aspects of that struggle and in the war of ideas and ideals which it represents and reflects.

"At such a time it is a direct responsibility of the Federal Government, under the leadership of the President of the United States, to plan quickly and thoroughly for the defense of the Nation. Already the President and the Congress have taken far-reaching action on behalf of all of us in order to enable the American people and their Government to protect and to defend themselves.

"At such a time every citizen and every institution of public service built in the field of liberty have a direct responsibility to bear. My purpose in inviting this general assembly of all the faculties of the university was briefly to indicate to them in what way the activities of our university can be used in cooperation with the Government to strengthen the Nation's defense.

"One who reads carefully the history of Europe during the past half century will recognize that military preparedness, highly important though it be, is but one part of national defense. It is of still higher importance that the people as a whole and their representative institutions understand what it is which they are called upon to defend, and to plan with thoroughness and skill for their part in that defense.

"DEFENSE COMMITTEE NAMED

"In order that careful and systematic study might be made of this problem, I appointed on July 5 last a university committee on national defense composed of the following members of the university in addition to the president of the university; Carl W. Ackerman, dean of the faculty of journalism; Charles W. Ballard, dean of the College of Pharmacy; Joseph W. Barker, dean of the faculty of engineering; Frederick Coykendall, chairman of the trustees; Condict W. Cutler, Jr., trustee of the university; Leslie C. Dunn, professor of zoology; Frank D. Fackenthal, provost of the university; Virginia C. Gildersleeve, dean of Barnard College; Robert M. Haig, McVickar professor of political economy; Herbert E. Hawkes, dean of Columbia College; George B. Pegram, dean of the graduate faculties; Edmund A. Prentis, trustee of the university; Willard C. Rappleye, dean of the College of Physicians and Surgeons; Lindsay Rogers, Burgess professor of public law; William F. Russell, dean of Teachers College; J. Enrique Zanetti, director of chemical laboratories.

"This representative committee has been at work for 3 months upon its problem and has already submitted the first of a series of helpful reports.

"UNIVERSITY FUNCTION SET FORTH

"It is fortunate that we shall have no difficulty and no difference of opinion among us in recognizing the true function of a university in this cooperation with government. The aim of a university, of course, is the conservation and extension of knowledge. Therefore, that conservation and extension of knowledge must be undertaken with redoubled vigor in respect to the analysis and understanding of the economic, social, and political problems which are involved in this World War and which are creating for the United States the problem which confronts it.

"It is fortunate, also, that the Government of the United States in its plans for national defense appreciates this university function. The Government plans the least possible disturbance of the teaching and research work of colleges and universities, and the least possible disturbance of university scholars and students. Indeed, the President of the United States in a public statement has called upon students of all kinds to return to their studies. The acts recently passed by the Congress recognize this attitude and this policy in very considerable degree.

"Inasmuch as we are confronted in this country and in every other country by emotional outbursts which are quite hysterical in their character and which lead to acts of the utmost cruelty and violence, we must make sure that the scholar uses his opportunity, which is as unique as it is tremendous, to guide public opinion into paths of reason, of reflection, and of understanding. It is of the very essence of our national defense that our people as a whole shall understand what it is that they are defending, and that they have this presented to them with calmness, good judgment, and full knowledge.

"In this regard the responsibility of each one of us is very great. We must not ourselves be misled by phrases or by formulas, and we must do our best to keep others from being so misled.

"ACADEMIC FREEDOM DEFINED

"We shall no doubt hear much throughout the country in the immediate future in respect to academic freedom. That subject is one which has been discussed many times in my annual reports as president of the university, and I need not repeat here what I have recorded so emphatically in these reports, particularly in those for the years 1918 and 1935. The policy of Columbia University in this respect has long been well and thoroughly established.

"As I pointed out in my report for 1935, for those who are in statu pupillari the phrase 'academic freedom' has no meaning whatsoever. That phrase relates solely to freedom of thought and inquiry and to freedom of teaching on the part of accomplished scholars.

"We all know the history of academic freedom from the time of its first establishment some two centuries ago at Halle and Goettingen. The purpose of academic freedom is to make sure that scholarship and scientific inquiry may advance without being hampered by particular and specific religious or political tenets. Of course, academic freedom has never meant and could not possibly mean in any land the privilege—much less the right—to use the prestige, the authority, and the influence of a university relationship to undermine or to tear down the foundations of principle and of practice upon which alone that university itself can rest.

"University freedom, as I have often pointed out, is as important as academic freedom. Indeed, before and above academic freedom of any kind or sort comes this university freedom which is the right and obligation of the university itself to pursue its high ideals unhampered and unembarrassed by conduct on the part of any of its members which tends to damage its reputation, to lessen its influence, or to lower its authority as a center of sound learning and of moral teaching.

"Those whose convictions are of such a character as to bring their conduct in open conflict with the university's freedom to go its way toward its lofty aim should, in ordinary self-respect, withdraw of their own accord from university membership in order that their conduct may be freed from the limitations which university membership naturally and necessarily puts upon it. No reasonable person would insist upon remaining a member of a church, for instance, who spent his time in publicly denying and denouncing its principles and doctrines.

"PREPARATIONS FOR DRAFT

"It may be taken for granted that the trustees and the faculties are prepared to be generous and abundant in understanding in regard to the problems of individual members of the staff or of the student body who are called into full military service.

"It will be the policy of the university to grant leave of absence without salary to university officers who are called, and I shall recommend to the trustees that in order to protect the ultimate retiring allowances of such officers the university itself should assume in the case of those who have already undertaken teachers insurance and annuity association contracts, to meet both of the 5 percent contributions called for by those contracts during the period of military service.

"Students called to the colors will likewise be given leave of absence and no student in good standing will incur loss of tuition fees through entrance into full-time military service during the academic year. The proper officers of the university will make an equitable arrangement of credit to such students.

"Wednesday, October 16, will be an academic holiday in order that both officers and students affected by the provisions of the Selective Training and Service Act of 1940 may have ample opportunity to register. Their number is estimated at between 3,000 and 4,000.

"MILITARY COURSES ORGANIZED

"Already the university committee on national defense has organized activities of military usefulness for the voluntary participation of students and has still others in prospect for the academic year 1941–42. That committee will welcome suggestions from any member of the university, whether teacher or student, in relation to matters which fall under its jurisdiction. The special courses and programs which have already been arranged include:

"1. A unit for the training of air pilots under the Civil Aeronautics Administration.

"2. An orientation course under the direction of the department of civil engineering, making use of the facilities both at Morningside Heights and at Camp Columbia. This course in military engineering will be given academic credit in Columbia College and in the school of engineering.

"3. In addition, it is hoped that there will shortly be organized a Marine Corps Reserve Training unit which, if established, will lead to a commission as second lieutenant in the Marine Corps Reserves and will involve 1 night a week during the academic year, and training at Camp Columbia for two periods of 6 weeks each, following the sophomore and junior years.

"Attention of students is also to be called to the opportunity quite likely to be offered in the immediate future by the Navy Department for training through courses of Naval Reserve Midshipmen leading to commission as ensign in the volunteer Naval Reserve.

"Undoubtedly still other opportunities will be arranged in the not distant future.

"RESUMPTION OF PEACE EFFORTS

"It is of the highest importance that we all bear in mind the need which will be most pressing when armed hostilities come to an end, to undertake once more the task of laying the foundation for a system of international organization and cooperation for the protection of the world's prosperity and the world's peace. We must not be disheartened because of the failure of the attempts toward this high end which had already been made. We must resume those attempts with undiminished vigor and armed with the new knowledge which the experience of the last quarter century has brought us.

"Fortunately, we have a statement of ideals and of the program by which those ideals may be best achieved in the noteworthy plan agreed upon by the members of the conference held at Chatham House, London, in March 1935. At that conference 62 of the most distinguished statesmen and men of affairs in the world, coming from 10 countries, including Germany and Italy, agreed unanimously upon a series of recommendations which were subsequently endorsed by the unanimous vote of the International Chamber of Commerce.

"These recommendations constitute a convincing program for world reconstruction. It is upon this world reconstruction that our eyes must be fixed. It will not do to sit helplessly by and content ourselves with saying that no reconstruction is possible, that civilization is on its way to death and that the world as we and our ancestors have known it can never be restored. The temptation to that point of view and that attitude is certainly very great, but it is a temptation to which we simply must not yield.

"It would not be characteristic of us as American scholars to lose our faith, our hope, and our confidence in the ability of mankind to bring ultimate victory to moral principle and the spirit of service over the mad and cruel lust for gain and for power; for that is the essential struggle underneath and behind the economic and the military war.

"Behind the war of conflicting political doctrines, underneath and behind the war of lust for gain and for domination over one's fellowmen, there lies the war between beasts and human beings, between brutal force and kindly helpfulness, between the spirit of gain at any cost and the spirit of service built upon common sense and moral principle. Let there be no doubt where Columbia University stands in that war.

"I thank you for your presence and your kindly attention."

Mr. HOLT. Mr. President, if the Senator from Missouri does not object, I should like to place certain exhibits in the RECORD. I ask unanimous consent to place the matter to which I referred in the RECORD.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

DR. NICHOLAS MURRAY BUTLER

Dr. Nicholas Murray Butler's speech, in which he tells the professors of Columbia University to get behind his policy or resign, is in sharp contrast with a speech he made in January 1933. We must realize that the 1933 speech was delivered long before the war hysteria had developed and long before the propaganda to get in war had become so intense. Dr. Butler's statement, as quoted in the New York Times, follows:

"A DEFINITION OF LIBERTY

"Liberty is the assurance that every man may do what he believes is his duty in spite of majorities or customs and opinions. Liberty involves the right to be wrong. Liberty is attested always and

everywhere by the treatment of minorities. The reason that minorities are such a problem in half a dozen lands is that it is liberty struggling to find expression against the dominant forces of compulsion.

"If we are to protect liberty, if we are to give a satisfactory accounting of our stewardship of liberty, we must see that we so use it as to answer its critics and its enemies."

Compare that with the 1940 edict, which said:

"Those members of the faculty whose convictions were in open conflict with the university's doctrine (determined by Dr. Butler) should 'in ordinary self-respect' resign their faculty positions."

AND SO TO WAR

Dr. Hubert Herring, in his excellent book, And So to War, has a special section dealing with Nicholas Murray Butler's activities in the promotion of English interest in this country. Dr. Herring comments, as follows:

"Mr. Butler, in his personal activities and in the spending of Andrew Carnegie's millions, lends himself to the cause of Anglo-American solidarity. In fact, no task is more sympathetic to him than moving swiftly across the North Atlantic, to breakfast with the Prime Minister, lunch with the archbishop, tea with the King, and dine with the Cabinet. He accepts the honors which universities at home and abroad thrust upon him (the list now numbers more than 30 assorted doctorates) with the humility becoming a man who is one of the living symbols of the unity of the English-speaking peoples. And if he confuses the issues of peace with the necessity for preserving the British Empire, it is a confusion which is part and parcel of his own character."

In a report of the investigation of pro-British history textbooks in use in the public schools of New York City, we find this statement:

"The present reception to President Butler, of Columbia University, throughout England, where he is being feasted, toasted, and exalted for his pro-British propaganda is a striking confirmation."

Speaking before the Pilgrims of the United States in 1936, the Times quotes Dr. Butler as follows:

"We are met in the shadow of a great sorrow. Tens of millions living on every continent and under every clime who owe allegiance to the British Commonwealth are stricken with sadness and a sense of loss at the death of their sovereign."

He also refers to the monarch as "the fortunate symbol." He also says of the King and Kipling, "They represent that great and splendid tradition which is ours."

Throughout his writings and speeches, one finds his worship of England, its systems, and its rulers.

REPETITION OF 1917

In 1917, Nicholas Murray Butler issued the edict of support for war or get out of the faculty. He was also an ardent advocate of the work of the National Security League, the exposed agency against which a committee of the House of Representatives recommended criminal action for their activities in 1916, 1917, and 1918. His definition of liberty then was as it is in 1940—agree with me and speak; disagree and lose your job.

CARNEGIE FOUNDATION

In my remarks I referred to Dr. Butler's position with the Carnegie Foundation. Horace Coon, in his book Money to Burn, discusses the foundation in these words:

"AN ENDOWMENT FOR WAR

"Of course, Dr. Butler was enthusiastic about President Roosevelt's Chicago speech calling for a 'quarantine' on aggressor nations. 'Isolation,' declared the head of the endowment, 'is a folly only exceeded by its immorality.' He seems determined that the United States shall go to the aid of France and Britain should either need our help. Through the International Relations Clubs this sort of propaganda is encouraged. The endowment tells Americans about international problems and urges us to do something about them. It appeals to the idealism and high-mindedness of youth and advocates a foreign policy which would mean that the American Navy would be used as an international police force. It encourages British and French propaganda. The Carnegie endowment might be considered an expensive luxury which we, as a rich nation, can afford, since it supports a number of people doing work of possible academic value, but it becomes a menace to our peace and to the peace of the world when it agitates for international agreements demanding that we go to war for the sake of the peace of the world. If the nations of Europe should start a holy war against fascism or communism, it is easy to imagine the Carnegie endowment crying for another crusade to make the world safe for democracy. Just as the endowment helped in building sentiment favorable to France and England from 1914 to 1917, so it is building up the same sentiment today. Of course, the endowment believes that international questions should be solved by judicial discussion. But if a nation refuses that means, then, according to Dr. Butler, we are immoral if we remain neutral.

"No one can read the endowment reports or yearbooks without a disheartening sense of complete futility and utter ineffectuality. It has done nothing toward taking the profits out of war; it has never attacked the bases of economic imperialism; it has made no attempt to show the populations of warlike countries today how their leaders are driving them into war. It might investigate the world-wide struggle for oil and its connection with foreign policies. It might look into the influence of international bankers on diplomacy. It might investigate the international ramifications of the steel industry, the scrap-iron industry, the shipping industry, and the part these play in making inevitable another war. It might inquire into the role of newspapers and newspaper proprietors, or into the active foreign propaganda in this country. It has done none of these things, for it believes in war under certain circumstances, under the very circumstances in which it is most likely to come. It diverts the energies of those anxious for peace into futile and ineffective channels; it encourages earnest people to imagine that by joining clubs and reading pamphlets they are preventing the next war. It dares make no effort to combat the psychological build-up created by statesmen and journalists. Indeed, it actively contributes to it. The most richly endowed institution dedicated to the promotion of peace is thus turned into an aggressive agent for the promotion of war."

Mr. Coon also discusses the activities of Dr. Butler and the foundation preceding and during the World War of 1914–18:

"Dr. Butler was president of a university several of whose trustees were munitions makers. It is not to be wondered, therefore, that the sentiments of these men, at first perhaps confused, soon clarified into a conviction that peace could be achieved only by a victory of the Allies.

"So, as the war fever mounted in this country, the endowment strove to be on the side of prevailing public opinion. Within a few years of its establishment the association for international peace met the first crisis in its career by crying for a relentless prosecution of the war as loudly as any jingoist. No sooner had the United States entered the conflict than the trustees resolved, April 18, 1917, that 'the most effective means of promoting durable international peace is to prosecute the war against the Imperial German Government to the final victory of democracy.' Leading the stampede, noisiest in his demand, most arbitrary in his insistence on the regimentation of minds in his own university, was Nicholas Murray Butler, director of the department of intercourse and education, and later chosen president of the endowment. The income from $10,000,000, which to some people might seem to encourage independence of opinion, had the very opposite effect. The pacifists in charge of the association could not resist the frenzy of the mass mind. Indeed, they contributed to it. Apparently they did not seriously believe in their own propaganda. Whether they realized it or not they had been paving the way to war. Associated, as they were, with big business identified with allied success, their investments made them less rather than more independent than those less richly endowed. No more than the average man in the street, who was soon to be drafted, could they resist the pressure of the very propaganda they professed to oppose.

"The enthusiasm of the trustees for war was so great, in fact, that they repeated their resolution at their meeting of November 1, 1917. The division of international law, which has been collecting data on all known examples of international arbitration under the supervision of Dr. John Bassett Moore, was turned over to the State Department and its staff, paid by the endowment, prepared large number of volumes to be shipped to France for the enlightenment of the peace conference. Dr. James Brown Scott accompanied this material as official technical advisor, but like the other experts, he was ignored. Meanwhile, Dr. Butler was beating the drums and shouting for universal military service."

The book also states:

"Unwilling to expose the profits of the munitions makers, those in charge of the endowment imagine that what they are doing has some relevance to the modern world. Its activities and methods have been so innocuous that radicals have raised the question of its sincerity."

BUTLER AND CLARK EICHELBERGER

The book then discusses Dr. Butler and Clark Eichelberger, the director of the William Allen White committee. It will be noted that Eichelberger and Butler were prime movers in the White "war" committee. The book reads as follows:

"More closely associated with the endowment is the very active League of Nations Association directed by Clark M. Eichelberger, one of the endowment's busiest lecturers in the field. It stands frankly for 'a universal League of Nations functioning effectively to promote international cooperation and to achieve international peace and security.' Through its offices in Geneva, Washington, and New York it tries to influence the foreign policy of the United States and, by means of publications, lectures, and radio broadcasts, to arouse the American people to demand a foreign policy which will promote 'the development of the world community centered in Geneva.' The endowment contributes substantial amounts annually to this organization. Dr. Butler said of Mr. Eichelberger in his 1936 report: 'He has been the outstanding speaker upon whom the field workers counted for assistance in addressing a great variety of audiences. The director is happy to record his appreciation of this able cooperation in the work of the endowment.'"

A STATEMENT OF CARNEGIE

A statement of Andrew Carnegie is quite interesting when it is considered with the above notations. It is:

"Time may dispel many pleasing illusions and destroy many noble dreams, but it shall never shake my belief that the wound caused by the wholly unlooked for and undesired separation of the mother from her child is not to bleed forever. Let men say what they will, therefore I say that as surely as the sun in the heavens once shone upon Britain and America united, so surely is it one morning to rise, shine upon, and greet the reunited state—the British-American union."

CARLETON BEALS' COMMENT

Carleton Beals, in his book Glass Houses, also has some interesting information on the endowment. In his book we find these words:

"It is a very equivocal organization, careful never to air any of the root causes of war in any way to endanger vested interests or profit making, and is always pro-British. Every so often it sends a good-will representative through Latin America. It also gives assistance to the Pan American Society, for years little more than a closed corporation of powerful American interests having investments in Latin America. As might be expected, the good-will envoys selected have been utterly incapable of promoting good will, have actually been persons who have definitely promoted American aggression toward Latin America. * * * In 1938 it sent David P. Barrows, of the political-science department of the University of California, my own alma mater. Barrows has always been a big-stick imperialist. It just so happened I was in Central America when Barrows went through there. As I was just one jump ahead of Barrows, I gave the reporters his complete record. In this I was also helped by a clipping my mother had sent me by chance, in which Barrows made the statement that the United States was privileged to intervene militarily anywhere, any time, in Latin America. The reporters all quoted this gleefully when Barrows went through. * * * Time and again he had come out in support of the grossest aggressive measures toward Latin America. Such was the first Carnegie Peace Foundation good-will emissary. * * * More recently the foundation has chosen Dana Munro * * * a consistent apologist * * * for the old-style armed intervention policy, for everything of the worst imperialistic odor in our relations with that part of the world."

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Calloway, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 5053) for the relief of Verdie Barker and Fred Walter.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 9972) authorizing the improvement of certain rivers and harbors in the interest of the national defense, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MANSFIELD, Mr. GAVAGAN, Mr. PARSONS, Mr. CARTER, and Mr. DONDERO were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10539) making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes, and that the House receded from its disagreement to the amendments of the Senate numbered 11, 23, 24, 34, 37, 43, 48, and 59 to the bill, and concurred therein.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9980) to revise and codify the nationality laws of the United States into a comprehensive nationality code.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 162. An act to protect producers, manufacturers, distributors, and consumers from the unrevealed presence of substitutes and mixtures in spun, woven, knitted, felted, or otherwise manufactured wool products, and for other purposes;

S. 3778. An act to amend the act entitled "An act to provide better facilities for the enforcement of the customs and immigration laws," approved June 26, 1930;

S. 4316. An act to repeal sections 4588 and 4591 of the Revised Statutes of the United States;

S. 4341. An act to expedite national defense by suspending, during the national emergency, provisions of law that prohibit more than 8 hours' labor in any one day of persons engaged upon work covered by contracts of the United States Maritime Commission, and for other purposes; and

S. J. Res. 295. Joint resolution authorizing the participation of the United States in the celebration of a Pan American Aviation Day, to be observed on December 17, of each year, the anniversary of the first successful flight of a heavier-than-air machine.

RIVER AND HARBOR DEFENSE IMPROVEMENTS

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 9972) authorizing the improvement of certain rivers and harbors in the interest of the national defense, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BAILEY. I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BAILEY, Mr. SHEPPARD, and Mr. JOHNSON of California conferees on the part of the Senate.

EXTENSION OF SUGAR ACT OF 1937

The Senate resumed the consideration of the bill (H. R. 9654) to extend, for an additional year, the provisions of the Sugar Act of 1937 and the taxes with respect to sugar.

Mr. HARRISON. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The amendment offered by the Senator from Florida [Mr. PEPPER].

Mr. HARRISON. If there be no further speeches, may we have a vote on the amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. PEPPER].

The amendment was rejected.

Mr. KING. Mr. President, it is not my purpose to detain the Senate but for a few minutes. The so-called sugar bill has been the subject of serious consideration by persons in all parts of the United States, who are engaged in the production of sugar. It has received serious attention by the sugar-beet growers as well as by those who grow cane in Florida and Louisiana. For a number of months in both branches of Congress the so-called sugar question has been under consideration. Many suggestions have been made as to the form of the measure which should be enacted into law, and many objections have been urged to a continuation of the present law. However, as the time approached under which the present so-called Sugar Act would expire, there has been a growing feeling that perhaps the wisest course to pursue was to continue the present act. Though various suggestions have been made to amend the act, they have, upon analysis, been rejected. By that I do not mean to say that all Representatives and Senators have been satisfied with the present act, or have been persuaded that efforts should not be made to modify and materially change the existing law. However, as indicated, the conclusion was finally reached by Members of the House to continue the present act, and the Senate, after hearing a number of witnesses, interested in the production of sugar, concluded that the action of the House should be approved.

Undoubtedly the fact that Congress will soon adjourn and that the present act will expire by limitation within a few weeks, has influenced the course pursued by the House and by the Finance Committee of the Senate.

May I say that I am not entirely satisfied with the existing law. I have upon many occasions insisted that there should be a larger production of sugar in continental United States; that the beet-sugar growers should have a larger quota, and that the States of Florida and Louisiana should have a greater quota. Sugar is an important agricultural product; it is an essential food product and in my opinion the best interests of the American people require a greater production in continental United States and its Territorial possessions, of this important food product.

Accordingly, I have as indicated frequently urged that there should be an increase in the production of sugar in continental United States and in Hawaii and Puerto Rico. We must not

forget that Hawaii and Puerto Rico are a part of the United States; they are not stepchildren, and Congress must take cognizance of their situation and their relation to continental United States and to our industrial and economic life.

As Senators know, Hawaii but a few years ago was an independent nation. It had its own government and its own economic and industrial policies. It voluntarily became a part of the United States. I had the honor to introduce in 1897 the first resolution for the annexation of Hawaii, and since it has become a part of the United States it has, in every way, discharged every responsibility resting upon it and upon its citizens. The residents of Hawaii have made important contributions to the growth and development of our country and they have, as indicated, loyally and patriotically, met every requirement. They are entitled to all the rights and privileges of American citizens, and in national legislation there should be no discrimination against the Territory of Hawaii. As a matter of fact I have stated upon several occasions that the Territory was entitled to statehood.

It is obvious that Hawaii is a most important part of this Republic. It is an outpost in the Pacific—a faithful and important guardian of the mainland.

Mr. ELLENDER. Mr. President, will the Senator yield for a question?

Mr. KING. I yield.

Mr. ELLENDER. Does the Senator know that Hawaii, with a population of only 368,336, has an allotment under the bill of 943,967 tons, whereas the continental producers, representing a population of 20,072,653, have an allotment of only 1,982,000 tons?

Mr. KING. I am familiar with the figures to which the Senator refers, and if time permitted and the occasion warranted, would submit figures showing the important financial contributions which have been made by Hawaii and her residents to our country. Only a short time ago, as the Senator may recall, a special joint committee was appointed to study the situation in Hawaii and to report as to the future position of the Territory. That report indicates that the resources of the Territory and the progress which it has made culturally, educationally, financially, and otherwise, give it high rank among the political units of the Republic; and as many believe, and I am among that number, entitle the Territory in the immediate future to be admitted into the Union as a sovereign State.

As I stated, Hawaii merged her identity with this Republic; she sacrificed her independence to become a part of the United States. We must, therefore, in enacting legislation which affects the industries of Hawaii, consider that the Territory is a part of this Republic, and that residents of the Territory are American citizens entitled to all the rights of other American citizens.

I was about to invite attention to the fact that in my opinion there was a provision in the bill which discriminates against the Territory. The sugar bill contains a discriminatory provision, not only against Hawaii but also against Puerto Rico. The discrimination to which I am now referring is found in the provisions of the bill which deny to Puerto Rico and to Hawaii the right to refine sugar produced in their respective territories. I have never been able to perceive the reason why the sugar producers of these territories should not be permitted to refine the raw sugar produced in their respective areas. The reason for the discrimination grows out of the fact that there is a powerful sugar organization or trust in continental United States, which is opposed and still opposes the producers of sugar in the territories referred to, refining their own sugar. The organization referred to has insisted that the raw sugar produced in Hawaii be transported to the mainland, there to be refined; and that the raw sugar produced in Puerto Rico be shipped to the Atlantic seaboard, there to be refined by the large sugar-refining units.

I believe this to be unfair; the people of Puerto Rico are encountering many economic and industrial difficulties; there are hundreds of thousands of people without employment, and the National Government is required to make important contributions to aid the unemployment situation. Several thousand persons could find employment in Puerto Rico if the producers of sugar were permitted to have their product refined in Puerto Rico. The people of Puerto Rico are under the flag; they are entitled to the rights of American citizens, and it is, in my opinion, a grave injustice to deny them the right to refine the sugar produced in their own home territory.

Our country in its dealings with its island possessions must be just and fair. It must not discriminate against these Territories or those residing therein. The people of Puerto Rico have not been entirely satisfied with the treatment accorded them by the parent government. They expect, and have a right to expect, just treatment and a due regard for the Territory and for its inhabitants.

As I have indicated, there is a large population in Puerto Rico, perhaps 1,800,000. Their resources are limited and the production of sugar is a most important industry in the island. It has been claimed that the needlework industry, which furnished employment to many hundreds of persons and a revenue of approximately $22,000,000 annually to the people of the island, has been crippled and materially injured by congressional legislation. I make no comment upon that legislation at the present time. I am alluding to it only for the purpose of indicating that the economic condition of Puerto Rico is not satisfactory; that there are obstacles to the economic and industrial growth of the island. Certainly Congress should, in all legislation dealing with Puerto Rico and its people, pursue a course that will be fair and just and command the confidence and indeed the affection of the people of Puerto Rico for the mainland. We must not be indifferent to Puerto Rico or Hawaii. There must be no discriminatory legislation; no measures enacted and no policies pursued which do not square with the principles of justice and equity and, I was about to add, righteousness.

Mr. President, I had hoped that the bill under consideration would carry a provision which would permit the refining of sugar in both Hawaii and Puerto Rico. When it was apparent that such an amendment to the bill would not prevail I urged that the report of the Committee on Finance would contain a statement substantially as follows:

> In recommending the passage of the bill without amendment, the committee does not wish to be understood as endorsing for permanent legislation the principle underlying sections 4 and 5. On the contrary, we regret that it has been found necessary to reimpose, even for a limited time, the discrimination against the refining in Hawaii and Puerto Rico of sugar for the continental American market, which discrimination, under the terms of the Sugar Act, had expired at the end of February of this year. Since it is clearly in the general public interest to provide as soon as possible for the extension of the sugar law for another year, we feel that it is necessary to avoid controversy over particular provisions of the bill which might prevent its enactment at this session.

I regret that my suggestion was not approved.

The PRESIDING OFFICER. The bill is still before the Senate and open to further amendment.

Mr. PEPPER. Mr. President, I offer an amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Florida will be stated.

The CHIEF CLERK. At the end of subsection (c) of section 302 it is proposed to insert the following:

> The proportionate share with respect to any farm or farms owned, operated, or controlled, directly or indirectly, by any individual partnership, association, or corporation in any one State of the mainland sugarcane area shall not be in excess of 50 percent of the total proportionate shares for that State, except and to the extent that the Secretary finds that there is no other person in that State who is qualified to receive the proportionate share with respect to any farm, or any part thereof, which may result from the foregoing restriction. In the distribution of any acreage which may be allocable on account of the above restriction, the Secretary shall give preference to the new producer.

Mr. PEPPER. Mr. President, I should like to call the attention of the Senate first to the very clear language of this amendment, limiting its application to "a State in the main-

land sugarcane area," so that in practical operation it could not affect any State outside the cane area. Only two States, Louisiana and Florida, are in the cane area, and the Senators from Louisiana will know from the facts whether or not any State other than Florida will be affected.

Senators will recall that subparagraph (b) of section 302 of the 1937 Sugar Act reads as follows:

> In determining the proportionate shares with respect to a farm, the Secretary may take into consideration the past production on the farm of sugar beets and sugarcane marketed (or processed) for the extraction of sugar or liquid sugar and the ability to produce such sugar beets or sugarcane, and the Secretary shall, insofar as practicable, protect the interests of new producers and small producers, and the interests of producers who are cash tenants, share tenants, adherent planters, or sharecroppers.

I am sure the able Senator from Mississippi [Mr. HARRISON], who is chairman of the Senate Finance Committee, will recall, and the Record will attest, that when hearings were being held before that committee in 1937 I went before the committee and made a certain declaration, which was that I did not favor monopoly in my State any more than in any other State. I advocated and urged the inclusion in the 1937 law of language which would protect the new producers of the State, so that the acreage that was allotted to any one State might be enjoyed by a large number of people in that State, and not principally by one big corporation.

I had no hesitancy, at that hearing, in advocating that principle and expressing my belief in it. Notwithstanding that act, the language of which clearly indicated the intent of the act that new producers should be given chief consideration, the act has been administered in my State so that in the year 1938 the United States Sugar Corporation had 22,555 acres; in 1939 it had 16,917 acres; and in 1940 it will have 20,469 acres under the allocation which has been made.

Another sugar producer in Florida, the Fellsmere Company, in 1938 had 3,509 acres; in 1939 it had 2,632 acres; and in 1940 it will have 3,184 acres.

Twenty-three independent growers in the State—that means everybody else in Florida engaged in growing sugarcane—had 1,552 acres in 1938, 1,539 acres in 1939, and 1,032 acres in 1940 allocated to them as a quota.

That meant that the total acreage for the State of Florida for 1940 is 24,686 acres. To that is to be added about 4,000 acres under the Ellender amendment, nearly all of which will go to the United States Sugar Corporation; but out of an allocated acreage of 24,000, one corporation has 20,000 acres, another corporation 3,000 acres, and 23 independent growers 1,000 acres.

Mr. President, I stood on this floor in 1937, and at different times since, and contended for a larger quota for my State, saying that I thought the State was entitled to a larger quota from the hands of the other States of the Union. I want to be consistent. I believe in the principle of fair distribution, not only outside my State but inside my State. To attest it, I have offered this amendment, which simply says that no one person, firm, or corporation in any one State may have more than 50 percent, one-half, of the total acreage in that State awarded to it.

Mr. HARRISON. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. HARRISON. Of course we are all familiar with the Senator's position, and how consistent and persistent he has been respecting this matter. He has fought for Florida on the question he now presents.

As has been explained here, if the committee had had time to go into the details of the matter which is now presented, it could have done so; but it is impossible under the present circumstances. Next year, when the matter will come up, as it must do—because this is an extension of the act for only a year—I assure the Senator that his views will be considered by the committee, and I am sure sympathetically considered.

The Senator will remember that another member of the committee, the Senator from Virginia [Mr. BYRD], has been very persistent with reference to these subsidy payments. Unfortunately, he is not here today. His wife is not well and he could not be here. He intended to make a speech on this question; but I assure the Senator from Florida that his view as expressed in this amendment will receive consideration next year, when the question comes up of a further extension of this act, or a further study of the whole question.

Mr. PEPPER. Mr. President, I very much appreciate the statement of my friend the able chairman of the committee. I know it is late in the session, and that certain parliamentary difficulties come to the minds of Senators who want to see this sugar law continued in effect which make them afraid that if we should adopt any amendment here we should not be able to secure at this session the passage of the resolution continuing the sugar law for 1 year.

As I said awhile ago, I am not trying to prevent the enactment of the continuing resolution for 1 year. I am merely trying to get justice, as I see it in my humble way, for my State, and not only for my State but for the people of the State, because as long as I am here I shall try to represent the State as a whole. I do not want to have it thrown in my teeth, every time I talk about sugar, that all I am doing is representing a big corporation which receives several hundred thousand dollars of benefit payments, and that I am its spokesman here, trying to get for it a larger part of a public franchise to produce an agricultural commodity. I am glad to see the big company grow, but I want to see the sugar business distributed all over my State wherever it is possible for the people of the State to grow sugar. I want the actual farmers who live in Florida, who make their homes there and rear their children there, to grow sugarcane as an adjunct to an agricultural crop, which is their chief business; and that cannot be done so long as the present system continues as it is imbedded in this law. If we should receive any additional quota, this one corporation would get the greater part of it. I want to cut down its proportion first at least to not more than 50 percent of the State's quota and then let whatever quota is left be distributed as widely as possible among the farmers.

So I submit the amendment. I felt that it was my duty to the Senate to be as consistent in my argument and in the assertion of principles with regard to Florida as I was with regard to other States.

I submit the amendment to the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida [Mr. PEPPER].

The amendment was rejected.

Mr. WAGNER. Mr. President, before the bill is voted upon I desire simply to express my view in favor of the legislation.

The sugar-refining industry in New York State is the largest in the Union, and the port of New York is the largest refining center in the world. This legislation provided in this bill is absolutely necessary for the preservation of that industry and the employment of its workers. It is a very efficient industry, it pays high wages, and its destruction would be a serious matter to the people of New York. The employees affected have presented the problem to me earnestly and persuasively, and I have been most anxious that nothing be done to impair their livelihood or the prosperity of the industry. I am, therefore, delighted to see that the necessary legislation will be enacted to protect the industry and its workers and to promote the welfare of the Nation as a whole.

As part of my remarks, I ask unanimous consent to have printed in the RECORD an editorial from the Brooklyn Eagle and a number of letters, beginning with letters from the Honorable Herbert H. Lehman, Governor of our State, and from the borough president of Brooklyn, the Honorable John Cashmore, in favor of the legislation in its present form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The editorial and letters are as follows:

[From the Brooklyn Eagle of August 12, 1940]

FIGHT TO SAVE SUGAR INDUSTRY MUST BE PRESSED IN SENATE

Brooklyn business and civic organizations should not in any way relax their efforts on behalf of a new sugar act, so framed as to insure the preservation of the industry in Brooklyn.

It is true that the measure has been passed by the House in the form for which the united interests of this community, headed by Borough President Cashmore, were fighting all spring. But now it is in the Senate, and it is feared that the same fight will be reenacted in the Upper Chamber on behalf of the Puerto Rican and Hawaiian refiners.

Over the years the sugar industry here has received many blows from Washington, but today all that is sought is to maintain the status quo—continue the existing quotas on imports of the offshore refined sugar.

Because of the low wages paid on these islands—as little as 70 cents a day—it is obvious that the sugar refined here under American standards would be under a fatal handicap if the bars were let down, and a flood of cheap tropical sugar be permitted to glut the market.

It is well to remember what the sugar industry means to Brooklyn. Over 2,500 men and women are employed in it, and they share an annual pay roll of approximately $4,500,000. The industry pays local taxes and water fees amounting roughly to $500,000 and buys supplies from local merchants running into hundreds of thousands of dollars.

In the light of these facts it is easy to understand why Brooklyn has fought so unitedly for a sugar bill which would at least assure the continuance of present conditions.

Borough President Cashmore and many of the groups interested in the campaign have already urged upon Senators MEAD and WAGNER the importance of adopting the bill in the form in which it passed the House.

But the matter should not rest there. Brooklyn's sugar industry and its friends should be represented at committee hearings and should get their story personally before as many Senators as possible.

The measure means too much to Brooklyn for its advocates to fail to take every step possible to bring about its passage without crippling amendments.

STATE OF NEW YORK,
EXECUTIVE CHAMBER,
Albany, August 12, 1940.

Hon. ROBERT F. WAGNER,
The Senate, Washington, D. C.

MY DEAR SENATOR: I am in receipt of a letter from Charles Milbauer, vice chairman of the Employees' Committee to Maintain Brooklyn's Cane Sugar Refining Industry.

Since this letter very clearly and forcefully presents the interests of the refining industry in our State, I am sending you a copy.

In my opinion the Congress should not pass legislation which will reduce the quota of the home refining industry. As you will see from Mr. Milbauer's letter, New York has already lost a substantial portion of its sugar-refining industry, and many hundreds have been thrown out of employment.

May I ask your assistance and cooperation in protecting the interests of New York State in this very vital matter.

Very sincerely yours,

HERBERT H. LEHMAN.

EMPLOYEES' COMMITTEES TO MAINTAIN
BROOKLYN'S CANE SUGAR REFINING INDUSTRY,
49 South Second Street, Brooklyn, N. Y.

Hon. HERBERT H. LEHMAN,
State House, Albany, N. Y.

SIR: The members of the Employees' Committee to Maintain Brooklyn's Cane Sugar Refining Industry, of which I am vice chairman, wish to present to you the facts regarding the difficulties which confront the New York cane-sugar refining industry.

New York is the largest cane-sugar refining State in the Union and refining has taken place here for over 250 years. In the port of New York the industry normally gives employment to some 5,000 men but in recent years this figure has decreased considerably. The men and women now working in the New York refineries work only 3 or 4 days a week and it is impossible for them to give their families a decent American standard of living under these conditions.

Labor conditions in the New York refineries are excellent. Unionization is 100 percent, and all of the great unions—the A. F. of L., the C. I. O., the I. L. A., and the Brotherhood of Railroad Trainmen—are represented. Hour wage rates are higher than those found in other industries and vacations with pay and long established pension systems are in operation.

Since 1925, New York has lost approximately 40 percent of its sugar-refining industry. This decrease in business has not only cut employment in the refineries but it has also meant that jobs have been lost at the water front in the unloading of raw sugar from ocean vessels. In short, this drastic reduction in refining has affected sailors, stevedores, lightermen, weighers, checkers, refinery workers, etc., in the great port of New York, and this has happened in overseas sugar which is the second most important commodity in the port of New York, both as measured by weight and value.

New York's cane-sugar-refining industry has declined for two reasons: First, because after 1925 refining by cheap labor on the sugar plantations in the Tropics began in Cuba, Hawaii, Puerto Rico, and the Philippines; secondly, in recent years the beet-sugar industry has grown rapidly in the making of refined sugar to displace our product.

As you know, the refineries in the Tropics have been a recent development and they employ low-paid unorganized labor. For example, in Puerto Rico the Governor reports that the wages prevailing there are generally around 10 to 12 cents an hour. Tropical refiners are sugar producers, and as raw-sugar producers they have received substantial subsidies from the consumers in this country and the United States Treasury.

The beet-sugar industry only exists in the United States because it is highly subsidized. In fact, it would wholly disappear if the present subsidies were reduced.

In 1934 Congress wrote a Sugar Act, which was rewritten in 1936 and 1937. That act divided the American market among the offshore tropical refiners, the beet industry, and the home refiners in accordance with a certain quota formula. The quota assigned to the refiners in New York and other States is not sufficient to give adequate employment to those in the industry. But regardless of this fact, the tropical refiners and the beet-sugar factories have been making a wide attempt to decrease still further the quotas of the home refining industry.

On June 20 of this year the House of Representatives decided to extend the Sugar Act for 1 year and by an overwhelming vote (134 to 20) decided that there should be no increase in the quotas assigned to the tropical refiners. It also decided that there should be no increase in quotas for beet-sugar refiners. It is in the interest of the New York cane-sugar-refining industry and the workers in it that there be no expansion of the quotas for the tropical refiners or the beet-sugar industry.

We employees do not advocate a quota system for sugar, but if there is to be a quota system we request that we be given a "break" in it.

New York consumers pay $26,000,000 a year more for their sugar than is necessary in order to give protection to the sugar producers in continental United States, Hawaii, and Puerto Rico. Not one penny of this subsidy goes to benefit New York's sugar industry or its employees.

Since 1925 New York has been unaware of the dangers to employment in the sugar problems; and men and women in public life, until recently, have had no understanding of the problem whatsoever. New York cannot afford to lose more industry whether it be in sugar refining or in any other business. This year the people of New York have become informed regarding this issue and they have taken a very active part in our campaign to save our industry.

First, look at labor: The New York bodies of the Congress of Industrial Organizations, the American Federation of Labor, the International Longshoremen's Association and the Brotherhood of Railroad Trainmen are on record as 100 percent opposed to any further decrease in New York's sugar-refining industry.

Secondly, look at the maritime interests of New York: We find the Port of New York Authority, the Maritime Association of the Port of New York, the Harbor Carriers of the Port of New York are on record in our favor.

The chambers of commerce, including those from Brooklyn, Queens, and Yonkers are on our side.

Business organizations such as the New York Board of Trade, the Merchants Association of New York, have also joined with us.

Women, as citizens and consumers, have an interest in this problem. We find such well known organizations as the New York City Federation of Women's Clubs, the Long Island Federation of Women's Clubs, and the civic groups, the community councils of the city of New York behind us.

There are a considerable number of colored workers in our plants and many colored organizations in New York who have taken a deep interest in this problem.

Finally, I wish to point out to you that the New York Legislature, on March 30, 1940, passed a formal resolution to defend our industry, as did the New York City Council on April 18.

The Senate is now considering the sugar problem and when the bill, H. R. 9654, recently passed by the House does come before the Senate, we are certain that there will be demands to reduce our quotas and to increase the quotas for beet sugar and tropical refined sugar. We sincerely hope that you will support us.

The Governors of Massachusetts, New Jersey, and of the other great refining States, have made statements in support of the home refining industry. The State of New York, being the leading refining State, should not be caught off guard.

With great respect, we are,

Sincerely yours,

CHARLES MILBAUER,
Vice Chairman.

PRESIDENT OF THE BOROUGH OF BROOKLYN,
New York, June 29, 1940.

Hon. ROBERT F. WAGNER,
United States Senator, Senate Office Building, Washington, D. C.

MY DEAR SENATOR: I can well appreciate that your time and attention are devoted in these critical days to the formulation of an adequate defense for our country. Under the depressing circumstances now existing in the world, this concentration on defense is inevitable. But it is clear to me that a strong national defense requires a strong national economic structure. More than ever we need to encourage business and employment at home.

It is with these facts in mind that I call to your attention that the people of Brooklyn, and New York generally, are vitally concerned over the future of one of our most important industries—the receipt and refining of raw cane sugar. The fate of this New York industry will be determined, in a large measure, by the action taken by the Senate in the near future upon the Cummings sugar bill which was passed by the House last week.

May I summarize for you the interests of Brooklyn in this legislation? In 1934 Congress enacted comprehensive sugar legislation known as the quota system. By direct and indirect taxes placed upon sugar consumers, a guaranteed protection was given to the beet and cane growers of continental United States and to the plantation owners of Hawaii, Puerto Rico, and the Philippines. Another feature of the Sugar Act was that it provided a protection for the continental cane-sugar-refining industry by means of quotas limiting the amount of refined sugar which could enter the United States each year from the tropical refineries in Cuba, Puerto Rico, the Philippines, and Hawaii. Quota limitations were also placed upon the beet-sugar industry.

The general quota plan, as I have described in brief above, was extended for 1 year by Congress in 1936. Congress again extended the plan without substantial modification in the Sugar Act of 1937 which expires at the end of 1940. Early this spring Congressman WILLIAM BARRY, of Queens, introduced a bill which would have extended for 1 year the Sugar Act of 1937 in its original form. The Barry bill would have extended the quotas on raw sugar for the protection of sugar growers and the quotas on tropical refined sugar for the protection of refinery workmen. Surprisingly enough, however, a concerted attempt was made by the spokesmen for the highly subsidized Hawaiian and Puerto Rican sugar industries to defeat the Barry bill because it would continue limitations upon their refining. On May 7, 1940, the House Committee on Agriculture shelved the Barry bill and reported out the Cummings bill, H. R. 9654, which would extend the Sugar Act for 1 year, but which would not continue the limitations upon the refining of sugar in Hawaii and Puerto Rico.

Last week the Cummings bill came to the floor of the House for debate, and practically every Representative of the refining States opposed the measure because it would not restore the previous limitations upon tropical refining. After 6 hours of debate, valiantly led by Representatives of Brooklyn, Queens, and Manhattan, the House restored the previously existing limitations upon Hawaiian and Puerto Rican refining by the overwhelming vote of 135 to 20. After the Cummings bill was so amended, it was passed by the House and went to the Senate.

It is reported that the spokesmen for the American Tropics will make a concerted attempt to have the Cummings bill amended in the Senate to permit unlimited refining down on the plantations in the Tropics. Under the quotas established by law, if tropical refining expands, it means an immediate reduction of refining operations in New York and other refining States. The workers and consumers of the Borough of Brooklyn and the other refining cities of New York rightfully support the proposition that no sugar legislation should be enacted in 1940 or at any time which would create unemployment in refineries at home.

In behalf of thousands of New York sugar-refinery workmen, I urge you to support sugar legislation which will protect Brooklyn jobs by limiting refining in the Tropics. This means that the Cummings sugar bill should only be enacted if it continues to provide limitations on refining in Puerto Rico and Hawaii.

Any amendment to the sugar bill in the Senate which would provide for a further expansion of the quotas of the subsidized beet-sugar industry should be opposed because, other things being equal, an increase in the quota for beet sugar will bring a decrease in refining in Brooklyn, just as would an increase in the quotas for tropical-refined sugar.

New York is the largest cane-sugar-refining State in the Union—the port of New York is the largest refining center in the world, and Brooklyn is the heart of that local industry. Your support on the sugar legislation will, therefore, be in the interests not only of the people of this borough but also of the 17,000,000 people who live in and around the great port of New York.

Very truly yours,

JOHN CASHMORE.

NEW YORK, *September 25, 1940.*

Hon. ROBERT F. WAGNER,
United States Senate, Washington, D. C.

DEAR MR. WAGNER: This association has been much interested in the sugar industry of this area and is anxious that the community continue to receive the benefits resulting from this industry. As you know, the value of cane-sugar products refined in New York City totals about $86,000,000 annually, which represents approximately 20 percent of the total refined-sugar production of the United States, and provides a correspondingly large amount of employment.

The relationships between employers and employees of this industry have been excellent in the New York area for many years. The association, therefore, urges that you give favorable consideration to the Cummings bill, H. R. 9654, and that you support this bill when it comes up for consideration. We are convinced that this bill will greatly help to maintain the substantial sugar business and employment in the industry for the city of New York.

The board of directors of the association has adopted the following resolution, namely, "that the Merchants' Association of New York urge that the Congress enact no sugar legislation in 1940 which would tend to decrease further the volume of cane sugar which is received and refined in the port of New York."

The association believes the Sugar Act of 1937, which terminates this year, and which undoubtedly will be replaced by similar legislation, has served an excellent purpose, and has been of much benefit to the community. The present volume, based on existing quotas, has been satisfactory for a number of years. The industry, as well as other related businesses, would experience much difficulty and confusion if a change in existing quotas were attempted at the present time. We believe that the Cummings bill, H. R. 9654, would avoid these difficulties and we urge, therefore, that it be adopted.

Yours very sincerely,

THE MERCHANTS ASSOCIATION
OF NEW YORK,
By S. C. MEAD, *Secretary.*

EMPLOYEES' COMMITTEE TO MAINTAIN BROOKLYN'S
CANE SUGAR REFINING INDUSTRY,
Brooklyn, N. Y., July 15, 1940.

Hon. ROBERT F. WAGNER,
United States Senate, Washington, D. C.

Honorable SIR: The Senate will shortly have before it for consideration the sugar bill of 1940 (H. R. 9654). As this bill affords a large measure of protection against loss of jobs to over 2,000 men and women employees of Brooklyn's cane-sugar refining industry, their committee, of which I am chairman, respectfully urges you to vote for and work for the passage of this bill, without amendments or other changes. This bill continues the Sugar Act of 1937 for 1 year, or until December 31, 1941.

The House, on June 20 of this year, by the overpowering vote of 134 to 20, adopted the McCormack amendment to the Cummings bill. This amendment reenacts quotas on refined sugar made by cheap plantation labor in the Tropics. This action by the House was the same as it took in 1934, 1936, and 1937, and each time the Senate, in its consideration of sugar legislation, came to the same conclusion as the House.

It is of tremendous importance to us, American men and women workers in Brooklyn refineries, that there be no changes in the sugar quotas as passed by the House as any increase in the quotas for beet sugar or tropical refined sugar would most assuredly increase unemployment in Brooklyn refineries.

The undersigned has been employed in a Brooklyn sugar refinery for 29½ years, and among his 1,000 associate workers in this one plant are 650 persons with from 5 to 25 years of service, and 110 with from 25 to 50 years' service. Most of us have grown up in the sugar industry, and although skilled in our present jobs, are now past the desirable age for employment in other industries.

Our hope is legislation like H. R. 9654, which will continue our jobs and at the same time does not take anything away from the various other sugar groups. It is our earnest belief that you will help us, and we trust that you will justify this sincere and unfailing faith.

Very respectfully yours,

WILLIAM P. COSTER.

BROTHERHOOD OF RAILROAD TRAINMEN,
EAST RIVER LODGE NO. 829,
The Bronx, N. Y., August 6, 1940.

Hon. ROBERT F. WAGNER,
United States Senate, Washington, D. C.

DEAR SENATOR: The enclosed copy of our letter today, addressed to Mr. Whitney, president of our organization, which is self-explanatory, explains the interest of the men employed by this terminal in H. R. 9654, which is now before the Senate.

We earnestly hope that you will do everything possible toward having this bill passed by the Senate.

Yours very truly,

JOHN MCDONOUGH,
Chairman, Jay Street Terminal General Committee.

BROTHERHOOD OF RAILROAD TRAINMEN, LODGE NO. 829,
August 6, 1940.

Mr. A. F. WHITNEY,
President, Brotherhood of Railroad Trainmen,
820 Superior Avenue West, Cleveland, Ohio.

DEAR SIR AND BROTHER: The accompanying memorandum pertaining to H. R. 9654, which is self-explanatory, has reference to your letter February 14, reference 829–A. F. W.–H. B.–H.

For the reasons expressed in our letter February 11, our membership is most desirous of having this bill passed by the Senate, preferably in its present form.

At present the cane-sugar refinery served by the rails of this railroad is closed down and there appears to be little prospect of its resuming operations, unless legislation favorable to cane-sugar refiners in the United States is passed. To give you an idea of the importance of sugar tonnage in our carryings, we cite the following comparison: during the month of March 1937, when the refinery was operating and when sugar shipments were moving freely, 576 cars were shipped against 57 cars in March 1940, a decrease of 519 cars. The volume of business at present being handled by this terminal is very low. It seems impossible to secure additional business to even partially offset the loss of sugar tonnage, hence the concern of our membership about the situation particularly the distinct possibility of a reduction in forces.

May we ask that you again take up the matter vigorously with the view to rendering whatever aid may be possible toward the passage of this bill by the Senate? Please reply.

Fraternally yours,

JOHN MCDONOUGH,
Chairman, Jay Street Terminal General Committee.

THE SENATE SHOULD FINISH THE JOB AND PRESERVE EMPLOYMENT IN THE SUGAR-REFINING INDUSTRY IN THE STATE OF NEW YORK

The United States Senate in the near future will vote upon the sugar bill of 1940, H. R. 9654, which was passed by the House of Representatives on June 20. It is of vital importance to New York, the largest sugar-refining State in the Union, that the Senate maintain the quota limitations upon the imports of tropical refined sugar which are now provided for in the bill.

On three separate occasions in the last 6 years the Senate has decided with the House that the sugar-quota law should protect American workmen in the home cane sugar refining industry as well as American beet and cane growers in continental United States and in the American Tropics. The House decided on June 20 that the maintenance of this principle of equal protection for all branches of the sugar industry was just as important today as it was in 1934, 1936, and 1937.

The Sugar Act of 1937, which by quotas divided the total American sugar market among the home cane-sugar refiners, the beet-sugar factories, and the tropical refiners, expires at the end of 1940. While it was agreed in the House this spring to extend the act for 1 year, it was suggested that the law be changed to give a larger share of the American sugar market to the beet-sugar factories. After considerable debate, the House Agriculture Committee decided that an increase in the beet-sugar quota, or share, was not in order. A concerted attempt was also made by the plantation refiners in Puerto Rico and Hawaii to obtain an unlimited quota. But the House on June 20, by an overwhelming vote of 134 to 20, decided to continue the previous quotas on refined sugar from these tropical islands. After this vote, the House passed the sugar bill which would continue the Sugar Act for 1 year.

New York consumers pay about $26,000,000 a year in direct sugar taxes and indirect subsidies which go to benefit sugar producers, including those in Hawaii and Puerto Rico. Refiners in those islands, as sugar producers, receive handsome cash benefits from American consumers. No subsidies of any kind accrue to the New York refining industry. If consumers are to be called upon to pay sugar subsidies, the sugar bill at least should safeguard the jobs of thousands of persons working in the New York refining industry.

It is highly probable that amendments will be offered in the Senate to permit increased refining in the Tropics. Any increase in tropical refining, under a quota system, will bring about a loss of jobs for well-organized American sugar-refinery workmen in New York and other sugar-refining States. The Senate should pass the sugar bill with limitations upon Hawaiian and Puerto Rican refined sugar, or it should not pass the bill at all.

EMPLOYEES' COMMITTEE TO MAINTAIN BROOKLYN'S
CANE SUGAR REFINING INDUSTRY,
Brooklyn, N. Y., August 7, 1940.

Hon. ROBERT F. WAGNER,
United States Senate, Washington, D. C.

HONORABLE SIR: On June 20 the House of Representatives passed by an overwhelming vote of 134 to 20 the sugar bill H. R. 9654, 1940. This bill provides that quota limitations upon imports of tropical refined sugar will be maintained. As New York is the largest refining State in the country it is of utmost importance to labor and industry that this bill be passed by the United States Senate. Over a period of 6 years the United States Senate on three different occasions has decided with the House that the sugar-quota law should protect the home cane-sugar industries, American beet and cane growers in continental United States and in the American Tropics.

This bill of 1940 is a reaffirmation of the principle of equal protection for all branches of the sugar industry, which is just as important today as it was in the years from 1934 to 1937. In the sugar quota bill of 1937, which expires at the end of 1940, the total American sugar market quota was divided among the cane-sugar refineries, the beet-sugar factories, and the tropical refineries. The House agreed this past spring to extend this quota 1 year. The beet sugar people attempted to increase their quota and the plantation refineries in Puerto Rico and Hawaii tried to obtain unlimited quotas. It was the House Agriculture Committee that decided that an increase in the beet quota or share was not in order. The House then decided by a large majority to continue the previous quotas on refined sugar from the tropical islands.

The consumer of New York State pays huge sugar taxes and indirect sugar subsidies which are only beneficial to the sugar producers in Hawaii and Puerto Rico. If the consumer is made to pay all these taxes without any subsidy to the New York refining industry the sugar bill should at least help keep the jobs of thousands working in the New York refineries. The refinery workmen of New York are well organized and receive the best wages the industry offers in the world. The refining industry of the Tropics does not practice our well-known collective bargaining. Therefore, any increase in the tropical refined sugar under a quota system will bring a loss of jobs over here and a probable migration of industry out of New York State. Unless the Senate passes the bill with limitations upon Hawaii and Puerto Rico it should not be passed at all.

Very respectfully yours,

THADDEUS KAMIENOWSKI.

WESTCHESTER COMMITTEE TO DEFEND THE HOME
CANE SUGAR REFINING INDUSTRY,
Yonkers, N. Y., August 5, 1940.

Hon. ROBERT F. WAGNER,
Senate Office Building, Washington, D. C.

DEAR SENATOR: The Finance Committee of the United States Senate has under consideration H. R. 9654, a bill to extend the life of the Sugar Act of 1937 for an additional year. This bill was passed by the House of Representatives on June 20, 1940, after being amended to reinstate the quotas on refined sugar from Hawaii and Puerto Rico.

It is the contention of this committee, composed of employees of the New York metropolitan area cane-sugar industry, that this bill should be concurred in by the Senate and enacted into law at the earliest opportunity. No alterations in the quotas for tropical refined sugar or beet sugar should be permitted. This contention has found widespread endorsement by industrial, commercial, and civil groups in New York and a large number of other States.

Aware of the keen interest you have always taken in the development and preservation of industry in New York, we have no doubt that you will do everything in your power to expedite the enactment of H. R. 9654 in its present form. The sugar-refining industry in this State has played an important part for over 250 years in the economic life of the State. Its expenditures through pay rolls, purchase of supplies, and for transportation have helped to make New York what it is today—one of the great industrial States in the Union.

The tropical refineries and the beet producers are highly subsidized by the United States Government while the continental cane refineries receive not one cent of this money nor do they ask for it. We feel that the tropical and beet-sugar refineries, which have gained a large share of the market through the aid of the subsidies, should not be allowed to increase their markets further to the detriment of the continental cane-refinery worker and, therefore, should be kept within the quotas set forth in H. R. 9654.

We respectfully request that you will give the views contained in this letter your most careful consideration.

Very truly yours,

O. V. BURLINGAME,
Secretary.

BROTHERHOOD OF RAILWAY AND STEAMSHIP CLERKS, FREIGHT
HANDLERS' EXPRESS AND STATION EMPLOYEES, LODGE NO. 773,
Brooklyn, N. Y., August 9, 1940.

The Honorable ROBERT F. WAGNER,
United States Senate, Washington, D. C.

MY DEAR SENATOR: The freight terminal by which the members of this lodge are employed has in the past derived a large proportion of its revenues from the cane-sugar refining industry, its rails directly serving a large cane-sugar refinery, operations at which are, at the present time, unfortunately suspended.

Our membership is, therefore, vitally interested in the passage of the Sugar Act of 1940 (H. R. 9654), as legislation favorable to the continental cane-sugar refineries is obviously the only means of obtaining a resumption of operations.

The quota limitations imposed by this bill on the tropical sugar refineries, and on the beet-sugar industry, should be maintained irrespective of any amendments which may be proposed when this bill comes before the Senate for their consideration.

We trust, therefore, sir, that you will vigorously use your influence to further the passage of this bill.

I am, sir,

Yours respectfully,

JOHN B. MULLIN,
President.

KINGS COUNTY CHAPTER OF THE
TAXPAYERS' FEDERATION, INC.,
Brooklyn, N. Y., August 12, 1940.

Hon. ROBERT F. WAGNER,
United States Senate, Washington, D. C.

DEAR MR. WAGNER: The wage and hour legislation should be maintained. At the same time, private industry must not be crucified by the uncontrolled importation of products from other shores which are manufactured under standards of employment which are lower than those enforced against our own industry.

I refer particularly to the sugar industry of Brooklyn, and on behalf of 73 taxpayer organizations in Kings County I urge that you not only vote in favor of the restrictive quotas pertaining to "off-shore sugar" but also take a most prominent and aggressive action to see that present legislation now before your honorable body is forthwith enacted. This legislation has now been before your body for several months after successful passage in the House of Representatives. Turn the dark cloud of worry for the 2,500 Brooklynites employed in the local sugar industry into a silver lining by immediate action on this legislation which is so important to these thousands of loyal citizens.

Yours very truly,

SUMNER A. SIRTL, *Chairman.*

LONG ISLAND FEDERATION OF WOMEN'S CLUBS, INC.,
Garden City, N. Y., August 7, 1940.

MY DEAR MR. WAGNER: Enclosed please find copy of resolution on the Federal Sugar Act, which was passed by this federation at their last convention.

Yours very truly,

MABEL E. PERSELL,
Corresponding Secretary.

[Enclosure]

LONG ISLAND FEDERATION OF WOMEN'S CLUBS, INC.

Resolution

Whereas Brooklyn is a large cane-sugar refining center giving work to over 1,800 men and women; and

Whereas this industry and these jobs are threatened by the possibility of an unlimited inflow of tropical refined sugar from Cuba, and from the American islands of Puerto Rico, Hawaii, and the Philippines, since the Federal Sugar Act, which now limits this inflow, expires this year; and

Whereas under the Sugar Act these tropical producer-refiners receive price benefits and cash subsidies from the Treasury, paid for by the American consumer, in part through a sugar sales tax, whereas our home refining industry receives no subsidies of any kind; and

Whereas the home refinery workers cannot compete with the tropical refiners who base their operations on cheap tropical labor; and

Whereas proper protection for the home refining industry does not result in higher prices to the consumer, nor does the consumer make any saving on the tropical refined sugar: Therefore be it

Resolved, That when Congress formulates new sugar legislation this year it carry over into the new Sugar Act the present limitation on the importation of tropical refined sugar (sec. 207, H. R. 7667), or that it provide for a similar limitation in the new act in order that our home refining industry have some protection against subsidized competition; and be it

Resolved, That the Long Island Federation of Women's Clubs, in passing this resolution, endorses this method of maintaining home industry and home employment; and be it further

Resolved, That copies of this resolution be sent to the Congressional Representatives from Brooklyn, to the two Senators from New York State, and to the Secretaries of Agriculture, Interior, State, and Commerce, respectively, in Washington, D. C.

Proposed by Brooklyn Woman's Club.

MRS. OLIVER G. CARTER, *President.*

MARCH 20, 1940.

JOSEPH A. WYNN POST, No. 260,
VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Brooklyn, N. Y., August 4, 1940.

Hon. ROBERT F. WAGNER,
Washington, D. C.

DEAR SIR: The members of this post urge you to vote in favor of the sugar bill of 1940—H. R. 9654.

As you know this bill would mean a lot to the citizens of Brooklyn who have positions at these sugar plants. We will be most grateful to you by your help and cooperation by voting in favor of this bill.

Respectfully yours,

JAMES A. BURNS, *Adjutant.*

DINING CAR EMPLOYEES UNION, LOCAL NO. 370,
New York City, August 6, 1940.

Hon. ROBERT F. WAGNER,
Senate Office Building, Washington, D. C.

DEAR SIR: Your attention is called to the sugar bill of 1940—H. R. 9654—which would extend the Sugar Act of 1937 for 1 year. This bill, as you know, was recently passed by the House of Representatives. The membership of our organization is appealing to you to support that bill without any amendments that would increase the tonnage of refined sugar.

At the present time, the employees in this industry are on a 3- or 4-day weekly basis. This being so, their incomes are insufficient to maintain decent conditions for their families. If an increase in tonnage of refined sugar is permitted, many of those employees will be unemployed and further curtailment of time will be the result to those who are still able to work.

Our American standard of living is far and above the islands of Cuba, Hawaii, Puerto Rico, and the Philippines, and those who are in control of the industry have and will attempt to bring into our country sugar already refined at a cost not comparable with our cost of production. Since employees in this industry are also the consumers of that product, they should not be deprived of their means of livelihood.

May we urge you to vote to maintain the existing quota limit of tropically refined sugar so as to keep Americans at work.

Respectfully yours,

CLAUDE H. MASON,
Financial Secretary-Treasurer.

EMPLOYEES' COMMITTEE TO MAINTAIN
BROOKLYN'S CANE SUGAR REFINING INDUSTRY,
Brooklyn, N. Y., July 31, 1940.

Hon. ROBERT F. WAGNER,
United States Senate, Washington, D. C.

HONORABLE SIR: The United States Senate will soon vote upon the sugar bill of 1940—H. R. 9654—which was passed by the House of Representatives on June 20. New York being the largest sugar-refining State in the Union, is vitally concerned that the Senate maintain the quota limiting the imports of the tropical refined sugar which is now provided in the bill.

On several occasions in the past year the Senate and the House agreed that the sugar quota should protect Americans in the home cane sugar refining industry and also the American beet and cane growers in continental United States and in the American Tropics. The House recognized the importance of equal protection for all branches of the sugar industry today, just as it did in 1934, 1936, and 1937.

The Sugar Act of 1937, which divided the total American sugar market among the home cane-sugar factories, the beet factories, and the tropical refiners expires at the end of 1940. The House agreed to extend this act for 1 year, which it was suggested that the law be changed to give a larger share of the American sugar market to the beet-sugar factories. After considerable debate the House Agricultural Committee decided that an increase in the beet-sugar quota was not in order. A concerted attempt was also made by the plantation owners in Puerto Rico and Hawaii to obtain an unlimited quota. This was met with the House by an overwhelming vote of 134 to 20 to continue the previous quotas on refined sugar from the tropical islands.

New York consumers pay about $26,000,000 annually in direct sugar taxes and indirect sugar subsidies which benefit sugar growers, including those in Puerto Rico and Hawaii. Refiners and sugar producers in those islands receive cash benefits from American consumers. Since the New York refiners receive no subsidies, the sugar bill, at least, should safeguard the jobs of thousands of persons working in the New York refining industry.

It is highly probable that amendments will be offered in the Senate permitting increased refining in the Tropics. An increase in the tropical refining, under the quota system, will bring about a loss of jobs for organized American sugar-refinery workers in New York and in other refining States.

Respectfully yours,

HAMP RUTH.

LOCAL NO. 186,
AMALGAMATED CLOTHING WORKERS OF AMERICA,
Kingston, N. Y., August 6, 1940.

Senator ROBERT WAGNER,
Washington, D. C.

HONORABLE SIR: On behalf of the thousands of American workers in the sugar-refining industry, we ask that you vote in the affirmative when the bill, House bill 9654, comes to a vote in the Senate.

This bill, which would regulate the importation of refined sugar, will preserve the jobs of those thousands of workers and should be passed.

Very truly yours,

JAMES GEARY,
President, Local No. 186, A. C. W. A.

EMPLOYEES' COMMITTEE TO MAINTAIN
BROOKLYN'S CANE SUGAR REFINING INDUSTRY,
Brooklyn, N. Y., August 9, 1940.

Hon. ROBERT F. WAGNER,
United States Senate, Washington, D. C.

HONORABLE SIR: I respectfully urge you to do all possible for the enactment of H. R. 9654, the 1940 sugar bill. This bill at present is before the Senate Finance Committee and it is most important to me and my associates that it be favorably reported without amendments.

The writer is shop steward for Auto Truck Chauffeurs' Local 282 of I. U. C. T. & H. of the A. F. of L. As the continuation of ours and the jobs of thousands of others in Brooklyn sugar refineries depends on this sugar legislation I again urge you to work and vote for its enactment.

Respectfully yours,

FRANK HAYES.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill (H. R. 9654) was ordered to a third reading, read the third time, and passed.

Mr. HARRISON. I move that the vote by which the bill was passed be reconsidered.

Mr. O'MAHONEY. I move to lay that motion on the table.

The motion to lay on the table Mr. HARRISON's motion to reconsider was agreed to.

Mr. ELLENDER. Mr. President, it was my intention to make a few remarks during the debate on the sugar bill in

order to give to the Senate some data which might be of interest. In order not to delay the passage of the bill I awaited asking the Chair for recognition until this moment. I dislike discussing the sugar bill now that it has passed the Senate, but I find it incumbent upon me to say a few words on the subject. It is not my purpose to detain the Senate very long.

Mr. President, like some of my colleagues, I am not entirely satisfied with a mere extension of the Sugar Act. I believe that the Senate Finance Committee should investigate the sugar problem from all angles. Because of lack of time, that could not be done at this session of Congress, but we have been assured that the question will receive the close scrutiny of the committee in the early part of next year.

I did all in my power, in and out of the Senate Finance Committee, to have an amendment adopted providing for a larger quota for Louisiana and Florida. I felt confident that unless such an amendment would obtain the blessing of the committee and of the Sugar Division of the United States Department of Agriculture, my efforts on the floor of the Senate would be futile. That proposition was thoroughly demonstrated this afternoon by the scant vote received by the distinguished Senators from Florida [Messrs. ANDREWS and PEPPER] with respect to the amendments proposed by them, one of which had as its object an increased quota along the lines suggested by me to members of the Finance Committee. On the other hand, since an increased quota would not help the growers of cane sugar for next year, because sugarcane must be planted in the fall for harvest the following year, and quotas for 1941 have already been established by those in authority, it was pointed out to me that every effort would be made early next year to increase our quotas in time for planting the 1942 crop. I felt that it would be more beneficial to my constituents who grow cane to extend the act now, rather than delay the bill's passage in a futile attempt to amend it so as to obtain a larger quota, especially in view of the fact that the time for planting is already upon us and a determination of the acreage for planting for next year must be made without further delay. Furthermore, as I pointed out to the Senate earlier in the day, unless the Sugar Act is extended, vast stores of offshore sugars will be dumped in this country, and sugar prices would be much depressed. In this connection, let me say that figures from the Department of Commerce show that the normal sugar exports on the part of the Latin American countries, including Cuba, amount to approximately 4,700,000 tons annually. This includes 2,000,000 tons which Cuba ships into the United States under its quota agreement. Of the balance, amounting to 2,700,000 tons, about 2,250,000 tons are exported to countries outside of the Western Hemisphere. Should the war now raging in Europe spread, this enormous amount of sugar would probably be left in the Western Hemisphere, presenting a distinct threat to the United States sugar producers. Besides that amount of sugar, the figures show surpluses in Puerto Rico and Hawaii of about 250,000 tons. It can readily be seen that continental sugar producers would be placed at a decided disadvantage if the quota system should not be in effect next year. Prices would be so low that it would no doubt bankrupt an already crippled industry.

Mr. President, with such serious conditions threatening our industry, I had no alternative but to support the resolution adopted a few minutes ago.

I have confidence in the members of the Finance Committee of the Senate, and I feel certain that they will give us relief early next year.

Why should we not increase the quotas of continental producers? There is no logical argument that can be advanced against it. I firmly believe that continental growers should be permitted to produce at least 40 percent of our sugar requirements, and I will not stop until that goal is reached.

Does it seem fair and just to permit Hawaii, with a population of only 368,336, to be allotted a quota of 943,967 short tons of sugar when only 1,982,518 short tons are allotted to beet- and cane-sugar producers in 330 sugar-producing counties in the United States, whose population is 20,072,653? I ask the same question with respect to Puerto Rico, with an allotment of 803,026 tons and a population of 1,543,913; and Cuba, with an allotment of 1,923,680 tons and a population of 3,763,376. That does not seem fair and just.

Listen to these interesting figures, Senators:

	Year	Sugar counties	Total United States	Percent of United States
Population	1920	15,242,798	105,710,620	14.22
Do	1930	20,072,653	122,775,046	16.35
Number of employees	1935	3,459,551	17,603,219	19.65
Wages paid	1935	$4,319,040,000	$20,424,969,000	21.15
Retail sales	1932	$9,996,770,000	$49,482,880,000	20.20
Do	1933	$4,777,700,000	$20,576,623,000	23.22
Do	1938	$6,096,460,000	$33,161,280,000	19.71
Residential phones	1929	2,417,118	11,288,880	21.41
Do	1930	2,759,878	13,177,885	20.94
Do	1935	2,235,808	10,718,626	20.86
Automobiles	1930	4,560,096	19,780,000	23.05
Do	1936	4,923,006	22,295,072	22.08

I have no comparative figures for other producing areas under the quota system. I present some with respect to Cuba, and I ask your attention to the following:

In 1937 and 1938 the Louisiana sugar interests purchased $7,060,000 of sugar-mill machinery in this country, and the beet area for the same period purchased $17,800,000, or a total of $24,860,000, as against Cuba for the same period, $719,000. Mr. President, that seems incredible and yet it is true.

Now, if the people of Cuba would be directly benefited by virtue of such a large quota, in comparison to ours, it might be passable, but listen to these figures from a table showing the actual production of sugar in Cuba for 1937–38, 1938–39 and the production allotments for 1940:

Country of owners	1937–38 production	Percent of production	1938–39 production	Percent of production	1940 production allotments	Percent of production
	Pounds		*Pounds*		*Pounds*	
United States	3,715,811,125	55.75	3,320,971,875	56.81	3,902,471,595	57.77
Cuban	1,479,616,775	22.20	1,239,636,125	21.20	1,554,915,695	23.02
Spanish	981,249,425	14.72	828,500,975	14.17	1,029,369,205	15.24
Other foreign [1]	488,994,025	7.33	441,778,025	7.82	268,010,520	3.97
Total	6,665,671,350	100.00	5,830,887,000	100.00	6,754,767,015	100.00

[1] Includes 10 Canadian mills, 4 English mills, 3 French mills, and 2 Dutch mills.

Think of it, Senators. Of the entire sugar production in Cuba, over 55 percent of it is owned and controlled by United States investors. I am informed that this 55 percent is owned by a few banks and bankers in New York. That is absolutely and positively unfair to mainland producers. That system must be corrected.

The sad part of it all is that labor in Cuba is supposed to benefit because of the existing law, that the wages are fixed by law at 80 cents per day, but only 50 cents per day is actually paid.

Another thing, it is said that wheat producers of the Middle West benefit greatly because Cuba buys all of its flour requirements from us. Listen to this, Senators: For the years 1932 to 1938, both inclusive, the total exports of flour to Cuba were 6,564,561 barrels. Of that amount, 4,447,574 barrels were produced from Canadian wheat, which was imported in this country for grinding in bond. The remainder of flour, or a paltry 2,116,987 barrels, was made from American wheat and exported to Cuba.

Mr. President, that is the picture, and I am confident that when the truth is known very little benefit comes to Americans in comparison to the enormous benefits which flow to Cuba.

Of the 42 sugar factories in the Philippines, only 12, with a production of 811,000,000 pounds of sugar annually, belong to Filipinos, and the remaining 30, with an annual production of 1,013,000,000 pounds of sugar, belong to Spanish, American, and British interests.

Mr. President, I have more facts that I would like to present, but I do not desire further to detain the Senate. If the sugar problem is thoroughly explored from every angle, it will become apparent that continental producers are being treated like stepchildren, and the Senate should take steps early next year to remedy this unjust and unfair condition.

I desire to take this opportunity of thanking the senior Senator from Mississippi [Mr. HARRISON], chairman of the Finance Committee, for his many courtesies. He is thoroughly conversant with our situation, and I look forward to much help from him when we again take up legislation to settle this vexing sugar problem.

Mr. O'MAHONEY obtained the floor.

Mr. ADAMS. Mr. President, will the Senator from Wyoming yield to me to submit a conference report on the supplemental appropriation bill?

Mr. O'MAHONEY. I shall be glad to yield to the Senator. Before doing so let me say that I desire to make an acknowledgment to the chairman of the Committee on Finance and to others who have cooperated in the passage of the measure which has just been passed. I say that because I want the Senator from Mississippi [Mr. HARRISON] to know that I shall open the few remarks I intend to make with that acknowledgment, because he might be called from the floor.

I shall be glad now to yield to the Senator from Colorado.

SUPPLEMENTAL CIVIL APPROPRIATIONS, 1941—CONFERENCE REPORT

Mr. ADAMS submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10539) making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes, having met, after full and free conference, have agreed to recommend and and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 13, 22, 33, 40, 44, 45, 46, and 49.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 5, 6, 7, 8, 10, 12, 14, 15, 16, 17, 19, 20, 21, 26, 27, 28, 29, 31, 32, 36, 38, 39, 42, 54, 55, 56, 57, 58, 60, 61, 62, 64, 65, 66, 67, 68, 69, and 70; and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"For an amount required to increase the compensation of the clerk of the Finance Committee of the Senate at the rate of $1,000 per annum so long as the position is held by the present incumbent, $750."

And the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed insert: "$1,400"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In the first line of the matter inserted by said amendment strike out the following: "(a)"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert: "$83,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ": *Provided further,* That nothing herein shall be construed to prohibit the National Labor Relations Board from obligating any part of such appropriation for carrying on any of the functions or duties specifically conferred upon it by the National Labor Relations Act or to repeal any provision of such Act"; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: Restore the matter stricken out by said amendment to read as follows:

"Development of landing areas: For the construction, improvement, and repair of not to exceed two hundred and fifty public airports and other public landing areas in the United States and its territories and possessions, determined by the Administrator, with the approval of a Board composed of the Secretary of War, Secretary of the Navy and Secretary of Commerce, to be necessary for national defense, including areas essential for safe approaches and including the acquisition of land, $40,000,000, of which $2,000,000 shall be available for general administrative expenses, including the objects specified in section 204 of the Civil Aeronautics Act of 1938 and including engineering services and supervision of construction: *Provided,* That this appropriation shall not be construed as precluding the use of other appropriations available for any of the purposes for which this appropriation is made."

And the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"Construction and repair: For an additional amount for the construction, repair, or rehabilitation of school, agency, hospital, or other buildings and utilities, including the purchase of furniture, furnishings, and equipment as follows:"

And the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: Strike out line 1 of the matter inserted by said amendment and insert in lieu thereof the following: "FISH AND WILDLIFE SERVICE"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$225,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$2,250"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$22,500"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$197,000"; and the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: After the sum of $412.50" in line 10 of the matter inserted by said amendment insert the following: ", together with such additional sum as may be necessary to pay costs and interest as specified in such judgment"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 11, 23, 24, 34, 37, 43, 48, and 59.

ALVA B. ADAMS,
CARTER GLASS,
KENNETH MCKELLAR,
CARL HAYDEN,
JAMES F. BYRNES,
FREDERICK HALE,
JOHN G. TOWNSEND, JR.,
Managers on the part of the Senate.

EDWARD T. TAYLOR,
C. A. WOODRUM,
CLARENCE CANNON,
LOUIS LUDLOW,
J. BUELL SNYDER,
EMMET O'NEAL,
GEO. W. JOHNSON,
JOHN TABER,
W. P. LAMBERTSON,
Managers on the part of the House.

Mr. ADAMS. Mr. President, I move that the report be agreed to. In connection with one of the items in the bill over which there was so much discussion, the matter of the airport allocations, I wish to insert a letter which was sent to the Chairman of the Committee on Appropriations by the Honorable Jesse Jones, Secretary of Commerce, and which in part led to the ultimate result arrived at.

The PRESIDING OFFICER. Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, October 4, 1940.

Hon. CARTER GLASS,
Chairman, Appropriations Committee, United States Senate.

DEAR SENATOR GLASS: With reference to our talk last night about the appropriation for the construction, improvement, and repair of airports, I am advised that the President has never seen the prospectus showing an ultimate of 4,000 landing fields and am sure that he does not expect Congress to approve that plan even in principle.

I am convinced, and I believe the President will be, that sufficient landing areas can be constructed with the $80,000,000 allocation and such additional W. P. A. help as may be available. This should provide between two and three hundred landing areas, and this number is undoubtedly needed, or will be as soon as the delivery of planes and training of pilots get under way.

Sincerely,

JESSE H. JONES.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

EXTENSION OF SUGAR ACT OF 1937

Mr. O'MAHONEY. Mr. President, this is the third time the able and distinguished senior Senator from Mississippi [Mr. HARRISON] has presided over the deliberations of the Committee on Finance while it has had under consideration the very complicated and technical problems connected with sugar legislation. Three times he has brought a sugar bill into this Chamber, and three times his leadership has been acknowledged by the Senate in the passage of the measure which he presented.

I feel that I would be amiss if I did not take this opportunity, as one of those who represent the beet-sugar area, to express my appreciation of the very efficient and able and tactful manner in which the Senator from Mississippi has conducted these proceedings ever since 1934. I make this statement particularly because so much has been said today in criticism of certain supposed defects in the legislation, that one who reads the RECORD might readily overlook the great benefits of the Sugar Act. The truth of the matter is that those of us who represent the sugar-growing States in continental United States, whether our product is the sugar beet or sugarcane, with the possible exception of those who represent the State of Florida, have been hoping and working for its enactment, because sugar producers everywhere have made it clear to us that they want this law.

Throughout this session those who have been interested in the sugar industry have been urging the enactment of this legislation. The Senators representing every beet-growing State from California as far east as Ohio have heard from their constituents that the Sugar Act of 1937 should be continued. Of course, we have all wanted amendments. We are all able to point out possible improvements, but without exception we all wanted the law and it would have been a great disappointment to all of us if the bill had not been enacted.

There has been no partisan division in the effort to secure enactment. Democrats and Republicans alike have joined in the effort which has culminated here today, and the sugar industry as a whole will rejoice that the measure is on its way to the White House, because everyone interested in growing or processing sugar knows that this law is the salvation of the sugar industry.

We have just passed the measure as it came to us from the House of Representatives. That very fact is eloquent testimony to the practical unanimity of opinion which supports the measure. It was the desire of most, if not all, of the Senators who represent sugar-producing States that there should be no amendment, so that the necessity for a conference between the two Houses might be avoided.

I think it is appropriate to recall that the quota system, has not been imposed upon the industry but rather that it was suggested by the industry. A stabilization agreement was worked out in 1933 by the leaders of the industry and its approval by the Department of Agriculture was sought. That stabilization agreement, the work largely of the sugar processors, was presented to the Secretary of Agriculture, but was disapproved because the then Secretary of Agriculture, Mr. Henry Wallace, did not believe that it sufficiently protected the interests of the farmer.

In February 1934, Secretary Wallace appeared before the Finance Committee in support of the original Jones-Costigan Act, because that measure was designed to benefit the growers of sugar beets and sugarcane, by giving them the benefit payments provided in the law. The purpose of these payments was to give the farmer a larger share of the proceeds of the sugar business.

It is appropriate to remark that the reason sugar legislation is before Congress perennially is that the world production is so great, and the market for sugar in continental United States is so rich, that all of the producers of sugar throughout the world would like to sell their products in our market.

Efforts were made over a long period of years to build up the domestic industry, to stimulate the growing of sugar beets, to stimulate the growing of sugarcane in the United States, by increasing the tariff on imports. Although the tariff was raised again and again and again, it was not possible to raise it high enough to prevent sugar from offshore areas flooding our market, with the result that the price dwindled, and producers could not operate at a profit.

No tariff could keep out sugar from Hawaii, Puerto Rico, or the Philippine Islands, because they were not foreign countries. They were under the flag. The higher the tariff was placed the more it stimulated the growing of sugarcane in the Philippine Islands, so that the output of that area increased from 485,000 tons in 1925 to 1,248,500 tons in 1933. During the latter year Philippine sugar constituted 19.58 percent of the sugar consumed in continental United States.

Even the Cuban contribution was not materially affected by the tariff. In 1929 Cuba sent in 3,613,000 tons, or 51.88 percent of the continental supply. In 1931, under a higher tariff, it still supplied 2,534,000 tons. Under the Sugar Act, the extension of which we have been considering, the Cuban proportion has been reduced to 27.4 percent of the total. The 1940 Cuban contribution is placed at 1,750,000 tons, as compared with more than 2,500,000 in 1931.

While we have been cutting down the share which Cuba has sent into the United States, we have been building up the share which is produced on the domestic cane area and on the domestic beet area.

In 1929 domestic cane amounted to only 2.71 percent of sugar consumption in the United States. Today it amounts to 6.49 percent, three times as much as before the sugar law was adopted.

With respect to the beet-sugar area, in 1929 we produced only 14.74 percent of the amount of sugar consumed in the United States. Today we produce 23.95 percent.

In other words, the underlying fact in connection with this legislation has been that it has increased the share which domestic producers of sugarcane and of sugar beets have had in the domestic market.

The quota system, by limiting the amount which can be brought in from other countries, by specific figures and specific percentages, is the only successful device yet developed to protect our beet farmers and those farmers who grow sugarcane.

Mr. President, in order to indicate that this legislation has been beneficial to the producers of beet sugar, I desire to call attention to the fact that during the 3 years from 1931 to 1933 about 869,000 acres on the average were planted to sugar beets in continental United States; that under the Sugar Act of 1937, which we have now extended, the average acreage for the period 1937–39 was increased to 932,000, and that the average production of sugar has been increased from 1,385,000 tons to 1,538,000 tons.

Mr. President, I have several tables here which demonstrate the success with which this law has operated, and I ask unanimous consent that I may insert them in the RECORD.

The PRESIDING OFFICER. Is there objection?

There being no objection, the tables were ordered to be printed in the RECORD.

Mr. O'MAHONEY. The first of these tables shows sugar-beet acreage production and growers' returns for the years 1931 to 1939. This table indicates that the growers' return of $5.94 per ton of beets in 1931 fell off to $5.26 in 1932 and that in 1934 with a Government-benefit payment of $1.75 the growers' return was $6.91 per ton. In 1936, because of the suspension of the benefit payments because the Agricultural Adjustment Act had been held unconstitutional, the growers' return fell to $6.05. With the resumption of benefit payments under the Sugar Act of 1937, the growers' total return was again increased. The table follows:

United States sugar-beet acreage, production, and growers' returns, crops 1931–39, with simple averages of 3-crop periods

Crop	Planted acreage	Tons sugar beets produced	Growers' returns per ton of beets		
			Processor payments	Government payments [1]	Total
	(1)	(2)	(3)	(4)	(5)
1931	760,000	7,903,000	$5.94		$5.94
1932	812,000	9,070,000	5.26		5.26
1933	1,036,000	11,030,000	5.13	$0.23	5.36
1934	945,000	7,519,000	5.16	1.75	6.91
1935	809,000	7,908,000	5.76	1.13	6.89
1936	855,000	9,028,000	6.05		6.05
1937	816,000	8,784,000	5.27	1.88	7.15
1938	990,000	11,615,000	4.65	1.87	6.52
1939 [2]	990,000	10,773,000	4.76	1.94	6.70
Simple averages (3-crop periods):					
1931–33	869,000	9,334,000	5.44	.08	5.52
1934–36	870,000	8,152,000	5.66	.96	6.62
1937–39	932,000	10,391,000	[2] 4.89	1.90	[2] 6.79

[1] Payments for sugar excluding those for acreage abandonment and production deficiency; does not include Soil Conservation payments of about 40 cents in 1936 and 1937.
[2] Preliminary.

Source: Columns (1), (2), and (3) from Agricultural Statistics and Crops and Markets. Columns (4) and (5) from Sugar Division records.

Let me now append a table showing the same facts for the State of Wyoming.

State of Wyoming—Sugar-beet acreage, production, and growers' return—Crops 1931–39, with simple averages of 3-crop periods

Crop	Planted acreage	Tons sugar beets produced	Growers' returns per ton of beets		
			Processor payments	Government payments [1]	Total
	(1)	(2)	(3)	(4)	(5)
1931	52,000	552,000	$5.71		$5.71
1932	42,000	506,000	4.97		4.97
1933	55,000	593,000	5.26	$0.19	5.45
1934	52,000	434,000	4.99	1.75	6.74
1935	42,000	525,000	6.18	1.13	7.31
1936	53,000	486,000	5.98		5.98
1937	49,000	612,000	4.91	1.86	6.77
1938	56,000	684,000	4.35	1.89	6.24
1939 [2]	55,000	539,000	4.60	2.04	6.64
Simple averages (3-crop periods):					
1931–33	50,000	550,000	5.32	.06	5.38
1934–36	49,000	482,000	5.72	.96	6.68
1937–39	53,000	612,000	[2] 4.62	1.93	[2] 6.55

[1] Payments for sugar excluding those for acreage abandonment and production deficiency; does not include Soil Conservation payments of about 40 cents in 1936 and 1937.
[2] Preliminary.

Source: Columns (1), (2), and (3) from Agricultural Statistics and Crops and Markets. Columns (4) and (5) from Sugar Division records.

Mr. President, I think it would be only proper, in the interest of fairness, in view of some of the remarks which have been made here today, to call the attention of the Senate and the country to a statement which was made by Hon. Henry A. Wallace, formerly Secretary of Agriculture, when he first came before the Senate Committee on Finance, in 1934, to urge the passage of this legislation.

It has been repeatedly stated that Mr. Wallace has been opposed to the beet-sugar industry. The fact is that he urged the Sugar Act to protect beet growers. Testifying before the Finance Committee in February 1934 Mr. Wallace said this:

I was going to say from the standpoint of the immediate social situation we have an industry which has become a backbone of the Mountain States; that is, of certain of the Mountain States. I have forgotten just how many farmers—we will say 60,000 farmers, are dependent upon this industry. The industry does represent a very vital part of the Mountain States economy. That is a fact which you have to recognize.

It was in recognition of this fact and of his desire to defend the grower of sugar beets that the Secretary of Agriculture at that time threw his support behind this legislation, legislation which while it has not been as effective as many of us would like to have had it, nevertheless, has prevented severe disaster to producers of sugar beets and of sugarcane.

Although Secretary Wallace has not always seen eye to eye with me, although he has not supported all of my requests, nevertheless I cannot forget that when the Sugar Act of 1937 faced a veto Mr. Wallace came to the defense of the industry and persuaded the President to sign the bill.

The anxiety of Members of the Senate to have this bill passed and enacted at this session was clearly demonstrated by what transpired in this Chamber only 2 or 3 days ago when the distinguished and able Senator from Louisiana [Mr. ELLENDER], sponsoring as he did a resolution for the relief of planters in Louisiana who might have been penalized by reason of overplanting, cooperated with the rest of us and secured agreement to that resolution without attaching it as an amendment to this bill in order that we might avoid a conference.

There was also attached to that measure an amendment which I offered myself, one which was designed to correct an ambiguity in the present law whereby the Secretary has been prevented from giving proper recognition to excess carry-overs. I am happy to say that that bill carrying those amendments has now passed both Houses and is on its way to the White House for signature.

Mr. President, in connection with that last amendment to the bill which passed 2 or 3 days ago, I ask unanimous consent that there may be printed in the RECORD at this point a letter which I wrote to the Secretary of Agriculture last week, explaining the amendment which I offered at that time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 28, 1940.

MY DEAR MR. SECRETARY: I am transmitting herewith a copy of an amendment of section 201 of the Sugar Act of 1937 which, if it were adopted, I am confident would be received with a large measure of satisfaction by every sector of the sugar industry because it would remove an ambiguity in the present law which, in the opinion of the industry, has had the effect of causing excessively high estimates of consumption.

The language of this amendment would not change any purpose Congress and the Department had in mind when drafting the Sugar Act of 1937 but would merely clarify the intent of Congress and permit the Department to administer the law in accordance with that intent. It would also afford complete protection to consumers of sugar from any danger of unnecessarily low quotas. Section 201 is the key provision of the act by which the supply and quotas and therefore the price of sugar are determined. As you know, the act makes it the duty of the Secretary to determine for each calendar year the amount of sugar needed to meet the requirements of consumers in the continental United States. But, his discretion is controlled by a specific statistical formula which is set out in the law. To guard against unduly low estimates of consumption which might have the effect of penalizing consumers, Congress then provided that the Secretary "may make such additional allowances as he may deem necessary * * * so that the supply of sugar made available under this act shall not result in average prices to consumers in excess of those necessary to maintain the domestic sugar industry as a whole." To this provision is attached another clause which declares that "the amounts of such additional allowances shall be such that in no event will the amount of the total supply be less than the quantity of sugar required to give consumers of sugar * * * a per capita consumption equal to that of the average of the 2-year period 1935–36."

This latter clause has been interpreted to prevent the Secretary from taking into consideration any excess carry-over of sugar stocks in making an additional allowance when the section is called into operation. It has the effect therefore of requiring the Secretary to make his allowances without regard to the actual existence of such an excess carry-over.

The question of interpretation of section 201 first arose in March 1938 when it became apparent that the estimate of consumption made in the previous December, namely, 6,861,761 tons, was too high and would have to be revised downward. On June 9, 1938, it was cut to 6,780,566 tons, which was the actual per capita average of the 2-year period 1935–36. This was a reduction of 81,195 tons, but there was an actual excess carry-over of 141,000 tons, so that "to maintain the domestic sugar industry as a whole" the total reduction should have been 222,195 tons.

This reduction could have been made without injury to the consumer. The failure to make it, however, had a depressing effect upon the price of sugar and was, therefore, injurious to every branch of the sugar industry. If the law, as interpreted, had permitted the Secretary to take into account the excess carry-over the reduction would have been made and the adverse effect upon price would have been avoided.

The amendment which I propose would correct this defect. First, by making it possible to take the excess carry-over into consideration, and, second, by basing the per capita consumption standard upon the 2-year period 1937–38 rather than the 2-year period 1935–36. The average of 1935–36 was 104.23 and of 1937–38, 102.63.

The provision of section 201, the amendment of which I suggest, is not called into play unless the average prices to consumers are in excess of those necessary to maintain the domestic industry as a whole. In the present chaotic condition of the world market there is no possibility of any such excess prices but if the Department should see fit to approve and recommend the amendment here offered, it would have, when taken into consideration with the recent action of your predecessor in revising downward the current estimate, a stabilizing effect upon the domestic market. It would not be in the slightest degree injurious to consumers but would give much encouragement to all of the producers of sugar beets and sugarcane who supply the continental market.

Very sincerely yours,

JOSEPH C. O'MAHONEY.

HON. CLAUDE R. WICKARD,
Secretary of Agriculture, Washington, D. C.

Proposed amendment to section 201 of the Sugar Act of 1937: "and in order that the regulation of commerce provided by this Act shall not result in excessive prices to consumers, the Secretary shall make such additional allowances as he may deem necessary in the amount of sugar determined to be needed to meet the requirements of consumers, so that the supply of sugar made available to consumers shall not result in average prices to consumers in excess of those necessary to maintain the domestic sugar industry as a whole. The amount of such additional allowances shall not be less than the amount required, after allowance for normal carry-over, to give consumers in the continental United States a per capita consumption equal to the average of the 2-year period 1937–38."

Mr. President, it ought to be added that the Sugar Act protects consumers. The provisions of section 201 even as amended by the language which Congress has approved contains a guaranty that the consumer shall not be exploited by fixing a level below which the estimate of consumption may not go. Producers of sugar beets and sugarcane do not seek to exploit the consumer. They ask only a fair price, and consequently they have agreed to this provision. They have supported, however, and will be very happy to have executive approval to, the modification I have proposed because it provides for a realistic computation of the amount of sugar on hand.

In addition to this, it should be pointed out that the Sugar Act supports itself. It is true that benefit payments are made to the growers of cane and of sugar beets, but it is also true that the processing tax which is collected and which is paid by producers, as well as by processors, more than covers the total amount of benefit payments.

There is written into the law a special provision by which larger payments are scaled down and, under this provision, the outlay under the Sugar Act of 1937 has been approximately $5,000,000 less than would have been paid out had large growers received the basic rate.

That the sugar industry and not the consumer bears the tax is demonstrated by the fact that the retail price of sugar is now almost at an all-time low.

AMENDMENT OF FEDERAL RESERVE ACT

Mr. BARKLEY. Mr. President, there are two or three little matters that are necessary to be passed.

Mr. WAGNER. Mr. President, I should like to make a motion.

Mr. BARKLEY. I yield.

Mr. WAGNER. I move that the Senate proceed to the consideration of Calendar No. 2045, House bill 10127. If the motion is agreed to, I propose to ask that further action upon the bill go over until Monday morning.

The PRESIDING OFFICER. The title of the bill will be stated for the information of the Senate.

The CHIEF CLERK. House bill 10127, to amend the Federal Reserve Act, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 10127) to amend the Federal Reserve Act, and for other purposes.

USE OF REFRIGERATOR CARS IN INTERSTATE COMMERCE

Mr. BARKLEY. Last Monday when the calendar was called, at the request of the Senator from New Jersey [Mr. SMATHERS] I objected to the consideration of Calendar No. 1719, Senate bill 2753. The Senator from New Jersey has advised me that he has no further objection to that bill. The Senator from Minnesota [Mr. SHIPSTEAD] is interested in it. I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill (S. 2753) to amend part I of the Interstate Commerce Act, as amended, with respect to the use of refrigerator cars, which had been reported from the Committee on Interstate Commerce, with an amendment to strike out all after the enacting clause, and to insert the following:

That paragraph (11) of section 1 of part I of the Interstate Commerce Act, as amended, is amended by inserting before the period at the end thereof a colon and the following: "*Provided*, That in the case of inability or refusal of any carrier by railroad to supply safe, adequate, and proper refrigerator cars to any shipper in interstate commerce of perishable food products or commodities, and which are suitable to protect the marketability of such shipments, such shipper shall have the right to supply to such carrier such refrigerator cars as the Commission approves as being safe, adequate, and proper for the transportation of such products and commodities: *Provided further*, That if any carrier by railroad is unable to, or refuses to, supply safe, adequate, and proper cars to a shipper in interstate commerce of perishable food products or commodities, and which are suitable to protect the marketability of such shipments, and (1) refuses to accept any refrigerator car so approved by the Commission and tendered to such carrier by such shipper for the transportation in interstate commerce of any such products or commodities, or (2) unjustly discriminates either between private-car companies supplying refrigerator cars to such shipper or between shippers owning refrigerator cars who have the right to supply cars to such carriers as herein provided, such refusal, or unjust discrimination, as the case may be, shall be deemed to be an unjust and unreasonable practice with respect to car service."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BRIDGE ACROSS WHETSTONE DIVERSION CHANNEL, MINNESOTA

Mr. SHIPSTEAD. Mr. President, on page 11 of the calendar, will be found Calendar No. 2312, House bill 10518. An identical Senate bill is on the calendar, Calendar No. 2311, Senate bill 4363. I ask unanimous consent that the House bill be considered at this point.

The PRESIDING OFFICER. Is there objection?

Mr. ADAMS. Mr. President, I simply want to inquire of the majority leader if it is now proposed to have an informal call of the calendar.

Mr. BARKLEY. No; it is not. The bill which was just passed is one that was called on the calendar on the last call, and I objected to it at the request of the Senator from New Jersey [Mr. SMATHERS]. I thought we might dispose of that bill. There are one or two little bills, such as the bridge bill now in question, which seem to be matters of some emergency. I did not suppose anyone would object to them.

Mr. ADAMS. I would not object to that, but I would object to taking up really legislative matters at this late hour.

Mr. BARKLEY. When we take up legislative matters which are general I may aid the Senator in objecting.

Mr. SHIPSTEAD. This is a bill which provides for building a bridge which must be started before cold weather sets in. In Minnesota we have an early winter, and the work must be begun before winter sets in. Otherwise I would not impose upon the Senate and ask for the present passage of the bill.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill (H. R. 10518) granting the consent of Congress to the Department of Highways and the county of Big Stone, State of Minnesota, to construct, maintain, and operate a free highway bridge across the Whetstone Diversion Channel at or near Ortonville, Minn., was considered, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. Without objection, the identical Senate bill (S. 4363) will be indefinitely postponed.

WIDOWS OF THE LATE GEORGE A. MEFFAN AND JOHN GLENN

Mr. CLARK of Idaho. Mr. President, I ask unanimous consent for the present consideration of Senate bill 4249, Calendar No. 2313.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill (S. 4249) for the relief of the widows of the late George A. Meffan and John Glenn, which had been reported from the Committee on Claims, with an amendment, on page 1, line 8, after the words "sum of", to strike out "$10,000 each, in full satisfaction of their claims against the United States", and to insert "$5,000 each", and at the end of the bill to add a proviso, so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the widow of George A. Meffan, late a United States marshal for the State of Idaho, and to the widow of John Glenn, late a United States deputy marshal for the State of Idaho, the sum of $5,000 each, on account of the death of their husbands who were killed on July 31, 1940, in the State of Idaho, while in the performance of their duty: *Provided*, That no part of the amount appropriated in this Act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

SURVEY OF CARTER AND ADJOINING COUNTIES, TENN.

Mr. STEWART. Mr. President, I ask unanimous consent for the present consideration of Senate Resolution No. 302, which appears on page 16 of the calendar under the head of "Subjects on the table." The resolution simply requests the Secretary of War to make a survey of Carter and adjoining counties in Tennessee which were damaged by the flood there of August 13, 1940. It does not call for an appropriation or anything of that sort.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. AUSTIN. Mr. President, I wish to ask the Senator from Kentucky, the majority leader [Mr. BARKLEY], if we are to proceed with the calendar in this manner? It does not seem to me to be fair to the Senate, because we are almost at the end of our rope today.

Mr. BARKLEY. Mr. President, there are two or three little matters of this sort which seem to be emergent, to which I thought there would be no objection, especially as we are soon to take a recess and are not to have a session tomorrow. Of course, if any Senator wishes to object, he may do so. There is only one other such matter, and that is one which the Senator from Louisiana wishes to bring up.

Mr. AUSTIN. Mr. President, I do not think we ought to go on in this manner. I have no doubt that every one of these measures is meritorious, but it is now 5:30, and probably if a call for a quorum should be had it would be difficult to obtain a quorum. I do not want to suggest the absence of a quorum. I should not want to carry on without a quorum.

Mr. STEWART. Will the Senator withhold his objection for a moment, until I can make a statement about the resolution?

Mr. AUSTIN. Certainly.

Mr. STEWART. The resolution does not call for an appropriation, and even later an appropriation may not be called for. The Senator may remember, from reading the newspapers and from information from other sources, that in August of this year, in northeastern Tennessee, southern Virginia, and western Carolina there was a very severe flood due to a cloudburst. Tremendous damage was done in Carter County and in other counties in Tennessee, when bridges and highways were washed away. This resolution was introduced following that time. It merely asks the War Department to make a survey. Perhaps I am guilty of some dereliction of duty in not having called it to the attention of the Senate sooner.

Mr. AUSTIN. Mr. President, I have no special objection to this measure or to any other. I am merely speaking of the parliamentary procedure. I had the impression that we were merely accommodating one particular item on the calendar because of the special circumstances to which the leader called attention. It now appears that we pass from one item to another. Where will it end? Is that the proper way to legislate? I do not think it is.

Mr. BARKLEY. Mr. President, I have no desire to violate the compunctions of Senators who seem to object to this procedure. There is nothing unusual about it. These measures are not of any great importance; but if some Senator raises a question about the procedure, we shall have to let the matter go over until Monday.

SHIPMENT AND DISCHARGE OF SEAMEN

Mr. OVERTON. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. OVERTON. I should like to call the attention of the Senator from Vermont to the observation I am about to make.

There is on the calendar a very important bill, No. 2281, House bill 9982. It passed the House, and an amendment was made by the Committee on Commerce. The bill provides for the Federal Government keeping track of seamen who have not been employed or discharged before a shipping commissioner. It is considered by the Department of Commerce to be a very important bill.

When the bill was reached on the call of the calendar the Senator from Indiana [Mr. MINTON] offered an amendment which was not germane to the bill, but was in the nature of a rider. The Senator from Montana [Mr. WHEELER] objected to the amendment offered by the Senator from Indiana, and on that objection the bill went over.

The Senator from Indiana states that he is perfectly willing to withdraw his amendment; and the Senator from Montana, who is not present in the Chamber, has assured me that he has no objection to the enactment of the bill. The bill will have to go back to the House, and the House will have to concur in the amendment. I should like to dispose of the bill this afternoon.

Mr. AUSTIN. Mr. President, I very much regret to disappoint the Senator from Louisiana if it is up to me to disappoint him.

Mr. OVERTON. The Senator is not disappointing me. He is disappointing the Department of Commerce.

Mr. AUSTIN. I am willing to come here tomorrow and serve as a Senator in the United States Senate, and attend to the call of the calendar, and give every Senator an equal opportunity to have both unimportant and important bills considered; but I think when we come to the hour of 5:35, after we have transacted the business we have done today, and many Senators have left the Chamber on the theory that we would not do what is now proposed, we ought not to proceed in this manner. It is not because I have any objection to a particular measure; but I must object to the procedure.

Mr. BARKLEY. I merely wish to say that we shall not have a session tomorrow. I do not know under what theory Senators leave before the Senate adjourns. They certainly were not given any assurance that as soon as the sugar bill was out of the way other matters might not be taken up. It is the custom, along about 5 o'clock, whether we have finished or not, for Senators to drift out. If any Senator wants to take up something to which some other Senator wishes to object, the threat is made that a quorum call will ensue, and therefore it is thought advisable not to take it up.

Mr. AUSTIN. I thank the Senator.

REGISTRATION OF CERTAIN ORGANIZATIONS—CONFERENCE REPORT

Mr. BARKLEY. Mr. President, I have a conference report which I wish to have disposed of on behalf of the Senator from Texas [Mr. CONNALLY]. If I can have it disposed of, I think perhaps we will have an executive session, and then cease and desist for the day.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. DANAHER. Is the conference report to which the Senator refers one which deals with House bill 10094, to

require the registration of certain organizations such as the Bund, Communist organizations, and the like?

Mr. BARKLEY. Yes; it deals with that subject.

Mr. DANAHER. I thank the Senator.

Mr. BARKLEY. For the Senator from Texas [Mr. CONNALLY] I submit the conference report on House bill 10094.

The PRESIDING OFFICER. The report will be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10094) to require the registration of certain organizations carrying on activities within the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 4, 5, 6, 9, 10, 11, 12, 13, 15 and 17.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 7, 14, and 16, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

Strike out ", and a copy of the minutes or journal of every such meeting" as proposed by the Senate amendment, and strike out the word "such" on page 5, line 21; and the Senate agree to the same.

TOM CONNALLY,
EDWARD R. BURKE,
JOHN A. DANAHER,
Managers on the part of the Senate.
HATTON W. SUMNERS,
U. S. GUYER,
SAM HOBBS,
C. E. HANCOCK,
Managers on the part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report?

There being no objection, the Senate proceeded to consider the conference report.

The report was agreed to.

DISBURSEMENTS BY UNITED STATES GOVERNMENT FOR NATIONAL DEFENSE

Mr. PEPPER. Mr. President, comment has been made by Mr. Willkie with reference to the disbursements of the United States Government for matters of national defense. I have a compilation which gives the figures from 1929 down to 1940, in terms of dollars, percentage of total Government expenditures, and percentage of the national income, relating to expenditures for national defense. I ask unanimous consent that the statement may be printed in the RECORD following my present remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Expenditures on national defense

	Millions of dollars	Percent of total Government expenditures	Percent of national income
Fiscal years—			
1929	680	20.6	0.8
1930	703	20.4	.9
1931	699	19.1	1.2
1932	708	15.6	1.5
1933	668	17.3	1.7
1934	540	9.0	1.1
1935	710	10.1	1.4
1936	912	[1]13.0 / [2]10.5	1.5
1937	935	11.4	1.3
1938	1,028	14.2	1.6
1939	1,163	13.4	1.8
1940	1,559	17.3	2.1

[1] Excluding bonus. [2] Including bonus.

EXECUTIVE SESSION

Mr. BARKLEY. Mr. President, before we go into executive session, I wish to make a statement.

We must be in session Monday, and possibly Tuesday, in order to wind up some odds and ends of legislation, conference reports, and amendments to House and Senate bills. A number of Senators have made arrangements to leave the city. I hope that early in the week we may be able to arrive at an arrangement by which we may suspend business until some time in November, under one sort of arrangement or another which I cannot at the moment predict. Therefore, I hope Senators who are not required to leave the city will not do so until we shall have determined definitely what sort of arrangement we can make, because it may be necessary to have a quorum during the remainder of the session, until we can enter into some kind of an arrangement. Therefore, unless Senators are compelled to absent themselves from Washington, I hope they may remain here for 3 or 4 days longer.

I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. SCHWARTZ in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nomination of Thomas E. Truelove to be postmaster at Inglewood, Calif., in place of C. A. Acton.

Mr. BURKE, from the Committee on the Judiciary, reported favorably the nomination of Harvey M. Johnsen, of Nebraska, to be judge of the Circuit Court of Appeals for the Eighth Circuit, to fill an existing vacancy.

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state the nominations on the calendar.

THE JUDICIARY

The legislative clerk read the nomination of Ingram M. Stainback to be United States District Judge for the District of Hawaii.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. McKELLAR. I ask unanimous consent that the President be notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, the President will be notified.

POSTMASTERS

The legislative clerk read the nomination of Frank S. Perkins to be postmaster at Fremont, Nebr., which had been heretofore passed over.

Mr. McKELLAR. I ask that this nomination be passed over until Monday.

The PRESIDING OFFICER. Without objection, that will be done.

The legislative clerk proceeded to read sundry other nominations of postmasters.

Mr. McKELLAR. I ask that the nominations of the other postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the remaining nominations of postmasters are confirmed en bloc.

That concludes the calendar.

RECESS

Mr. BARKLEY. As in legislative session, I move that the Senate take a recess until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 5 o'clock and 40 minutes p. m.) the Senate took a recess until Monday, October 7, 1940, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate October 4 (legislative day of September 18), 1940

DIPLOMATIC AND FOREIGN SERVICE

William E. Flournoy, Jr., of Virginia, now a Foreign Service officer of class 7 and a secretary in the Diplomatic Service, to be also a consul of the United States of America.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

TO FINANCE DEPARTMENT

Maj. Aloysius Joseph Tagliabue, Infantry, with rank from July 1, 1940.

TO COAST ARTILLERY CORPS

Second Lt. William Parham Kevan, Jr., Infantry, with rank from June 11, 1940.

TO INFANTRY

Second Lt. William Lyon Porte, Coast Artillery Corps, with rank from June 11, 1940.

PROMOTIONS IN THE REGULAR ARMY

TO BE COLONELS WITH RANK FROM OCTOBER 1, 1940

Lt. Col. Henry Lawrence Cullen Jones, Field Artillery.
Lt. Col. Edwin O'Connor, Cavalry.
Lt. Col. Eugene Alexander Lohman, Air Corps (temporary colonel, Air Corps).
Lt. Col. Kenneth Prince Lord, Field Artillery.
Lt. Col. Eugene Warren Fales, Infantry.
Lt. Col. John Taylor Rhett, Infantry.
Lt. Col. Livingston Watrous, Adjutant General's Department.
Lt. Col. Herbert Alonzo Wadsworth, Infantry.

TO BE LIEUTENANT COLONELS WITH RANK FROM NOVEMBER 29, 1940

Maj. Neal Creighton, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Alonzo Maning Drake, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Victor Herbert Strahm, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Ira Robert Koenig, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Raynor Garey, Field Artillery.
Maj. Harrie Dean Whitcomb Riley, Corps of Engineers.
Maj. Philip Schneeberger, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Leon Henry Richmond, Signal Corps.
Maj. Victor Guminski Schmidt, Coast Artillery Corps.
Maj. Fred Bidwell Lyle, Field Artillery.
Maj. Karl Shaffner Axtater, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. William Joseph Flood, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Charles Merrill Savage, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Francis Dundas Ross, Jr., Infantry, subject to examination required by law.
Maj. George Churchill Kenney, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Bertram John Sherry, Signal Corps.
Maj. George Merrill Palmer, Air Corps (temporary lieutenant colonel, Air Corps), subject to examination required by law.
Maj. Charles Rawlings Chase, Cavalry.
Maj. Loren Francis Parmley, Judge Advocate General's Department.
Maj. Erle Fletcher Cress, Cavalry.
Maj. Ray Harrison Green, Quartermaster Corps, subject to examination required by law.
Maj. John Parr Temple, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Hugh Williamson Rowan, Chemical Warfare Service, subject to examination required by law.
Maj. Byron Turner Burt, Jr., Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Earle Gene Harper, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Philip Gilstrap Bruton, Corps of Engineers.
Maj. Eugene Joseph Fitz Gerald, Infantry.
Maj. Edward Frederick French, Signal Corps.
Maj. Lotha August Smith, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Horace Leland Porter, Corps of Engineers.
Maj. Arthur Leo Lavery, Coast Artillery Corps.
Maj. Frank Marion Barrell, Quartermaster Corps.
Maj. Paul Sutphin Edwards, Signal Corps.
Maj. Franz Joseph Jonitz, Quartermaster Corps.
Maj. William Valery Andrews, Air Corps (temporary lieutenant colonel, Air Corps), subject to examination required by law.
Maj. Stanton Higgins, Cavalry.
Maj. Redding Francis Perry, Cavalry.
Maj. Walter Arthur Metts, Jr., Field Artillery.
Maj. Frank Camm, Field Artillery.
Maj. Richard Oscar Bassett, Jr., Infantry.
Maj. Percy Stuart Lowe, Coast Artillery Corps.
Maj. Lewis Alonzo Murray, Corps of Engineers.
Maj. John Alfred Gilman, Quartermaster Corps.
Maj. John Edward Langley, Corps of Engineers.
Maj. Lorenzo Dow Macy, Infantry.
Maj. Curtis DeWitt Alway, Infantry, subject to examination required by law.
Maj. Louis James Lampke, Infantry.
Maj. Clay Anderson, Corps of Engineers.
Maj. Vernon Calhoun DeVotie, Infantry.
Maj. Willis Arthur Platts, Quartermaster Corps.
Maj. Rene Edward deRussy, Quartermaster Corps.
Maj. Irvin Boston Warner, Field Artillery.
Maj. Edward Marion George, Quartermaster Corps.
Maj. Horace Joseph Brooks, Infantry.
Maj. George Howard Rarey, Infantry.
Maj. Jacob Edward Uhrig, Infantry.
Maj. Samuel Rivington Goodwin, Cavalry.
Maj. George Walcott Ames, Coast Artillery Corps.
Maj. Arthur Wellington Brock, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. John Joseph Murphy, Infantry.
Maj. Edgar Ambrose Jarman, Judge Advocate General's Department.
Maj. Marshall Joseph Noyes, Corps of Engineers.
Maj. Charles Manly Walton, Infantry.
Maj. Versalious Lafayette Knadler, Field Artillery.
Maj. Thomas Cleveland Lull, Infantry.
Maj. Leonard Sherod Arnold, Field Artillery.
Maj. Harry Nelson Burkhalter, Infantry.
Maj. Lewis Morrell Van Gieson, Ordnance Department.
Maj. Arthur Edwin King, Field Artillery, subject to examination required by law.
Maj. Aubrey Jefferson Bassett, Infantry.
Maj. Frank Amedee Derouin, Infantry.
Maj. Gottfried Wells Spoerry, Infantry.
Maj. Harry Donnell Ayres, Infantry.
Maj. Edwin Uriah Owings Waters, Infantry.
Maj. William Ward Wise, Chemical Warfare Service.
Maj. Frederick Harold Gaston, Field Artillery.
Maj. Rodney Campbell Jones, Coast Artillery Corps.
Maj. George Milroy Mayer, Quartermaster Corps.
Maj. Mortimer Buell Birdseye, Quartermaster Corps.
Maj. Howard Foster Clark, Corps of Engineers.
Maj. Howard Clay Brenizer, Field Artillery.
Maj. Morris Handley Forbes, Finance Department.
Maj. Dorsey Jay Rutherford, Coast Artillery Corps.
Maj. Reynold Ferdinand Melin, Ordnance Department.
Maj. Arthur Richardson Baird, Ordnance Department.
Maj. John Virgil Lowe, Chemical Warfare Service.
Maj. Robert Grier St. James, Infantry.
Maj. William Reuben Hazelrigg, Infantry.
Maj. Francis Irwin Maslin, Quartermaster Corps.
Maj. Merrick Gay Estabrook, Jr., Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Arthur James Russell, Infantry.
Maj. Wilbur Joseph Fox, Infantry.
Maj. Charles William Burlin, Corps of Engineers.
Maj. William Vincent Witcher, Infantry.
Maj. Oscar Ripley Rand, Judge Advocate General's Department.
Maj. Lester Joslyn Harris, Signal Corps.
Maj. Hubert Wiley Keith, Quartermaster Corps.
Maj. Joseph Francis Stiley, Coast Artillery Corps.
Maj. Richard Harrington Darrell, Cavalry.
Maj. Edward Henry Dignowity, Corps of Engineers.

Maj. Earl Gordon Welsh, Infantry.
Maj. John Robert Tighe, Quartermaster Corps.
Maj. John Carl Green, Signal Corps.
Maj. Carl Franklin Greene, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Eugene Ferry Smith, Judge Advocate General's Department.
Maj. Philip Doddridge, Infantry.
Maj. Robert Francis Gill, Corps of Engineers.
Maj. Henry Thomas Kent, Infantry.
Maj. James Arthur Boyers, Infantry.
Maj. Evan Kirkpatrick Meredith, Infantry, subject to examination required by law.
Maj. Howard John Liston, Infantry, subject to examination required by law.
Maj. Frank Richards, Finance Department.
Maj. Ralph Harry Woolsey, Quartermaster Corps.
Maj. Richard Francis Lussier, Infantry, subject to examination required by law.
Maj. Charles Marion Thirlkeld, Field Artillery.
Maj. Jack Roy Gage, Infantry.
Maj. Henry Wyatt Isbell, Infantry.
Maj. William Robert Carlson, Coast Artillery Corps.
Maj. Harland Clayton Griswold, Infantry.
Maj. Perry Wainer, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Krauth Whitson Thom, Quartermaster Corps.
Maj. Guy Malcolm Kinman, Judge Advocate General's Department.
Maj. William Seymour Gravely, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Harlan Ware Holden, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. John Francis Somers, Infantry.
Maj. Melville Stratton Creusere, Field Artillery.
Maj. Harry Ruhl Lebkicher, Chemical Warfare Service.
Maj. Clarence Flagg Murray, Field Artillery, subject to examination required by law.
Maj. Perry Cole Ragan, Infantry.
Maj. Ernest Stratton Barker, Infantry.
Maj. Joseph Leonard Stromme, Air Corps (temporary lieutenant colonel, Air Corps), subject to examination required by law.
Maj. Robal Alphonzo Johnson, Infantry.
Maj. James Palmer Blakeney, Infantry.
Maj. Glen Ray Townsend, Infantry.
Maj. James Cave Crockett, Infantry.
Maj. Woodbern Edwin Remington, Infantry.
Maj. Maxwell Gordon Oliver, Infantry.
Maj. John Edward Nolan, Quartermaster Corps.
Maj. Frederick Harrison Koerbel, Quartermaster Corps.
Maj. Linton Yates Hartman, Coast Artillery Corps.
Maj. Charles Carroll Knight, Jr., Field Artillery.
Maj. Joseph Vincent Thebaud, Infantry.
Maj. Russell Conwell Akins, Infantry, subject to examination required by law.
Maj. Henry Hapgood Fay, Quartermaster Corps.
Maj. Rudolph William Propst, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Peter LeToney, Infantry.
Maj. Robert Louis Renth, Infantry.
Maj. Clyde Henry Plank, Infantry.
Maj. Joel DeWitt Pomerene, Infantry.
Maj. Daniel Bern Floyd, Field Artillery.
Maj. John Orn Roady, Quartermaster Corps.
Maj. Abraham Lincoln Bullard, Coast Artillery Corps.
Maj. William Lincoln Hamilton, Cavalry.
Maj. Walter Leui Kluss, Field Artillery, subject to examination required by law.
Maj. Ralph Brittin Watkins, Infantry.
Maj. George Willis Morris, Signal Corps.
Maj. Eugene Lawrence Brine, Infantry, subject to examination required by law.
Maj. John Edward Adamson, Quartermaster Corps.
Maj. Dennis Patrick Murphy, Infantry.
Maj. Chauncey Alfred Gillette, Coast Artillery Corps.
Maj. Frank Denis Hackett, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Melvin Ray Finney, Infantry.
Maj. Alfred Percy Kitson, Field Artillery.
Maj. Preston Ballard Waterbury, Infantry.
Maj. Verne Clair Snell, Coast Artillery Corps.
Maj. Ira Augustus Hunt, Infantry.
Maj. Waine Archer, Infantry.
Maj. Aaron Edward Jones, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Paul Parker Logan, Quartermaster Corps.
Maj. William Harris Irvine, Infantry.
Maj. William Harold Roberts, Infantry.
Maj. Jesse James France, Field Artillery.
Maj. George Sesco Pierce, Infantry.
Maj. Robin Alexander Day, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Walter Emery Smith, Infantry.
Maj. William Branch Leitch, Field Artillery.
Maj. Paul Gerhardt Balcar, Judge Advocate General's Department.
Maj. Charles William Moffett, Judge Advocate General's Department.
Maj. John Henry Corridon, Judge Advocate General's Department.
Maj. Roy William Grower, Corps of Engineers.
Maj. Harold Alfred Willis, Ordnance Department.
Maj. Thomas Florence McCarthy, Infantry.
Maj. Rexford Shores, Infantry.
Maj. George Samuel Beatty, Infantry.
Maj. Milo Clair Calhoun, Quartermaster Corps.

TO BE LIEUTENANT COLONELS WITH RANK FROM DECEMBER 4, 1940

Maj. William Melton Tow, Infantry.
Maj. Armand Sherman Miller, Field Artillery, subject to examination required by law.
Maj. Grover Elmer Hutchinson, Infantry.
Maj. Rufus Arthur Parsons, Infantry.
Maj. Miguel Montesinos, Infantry.
Maj. Thomas Henry, Infantry.
Maj. John Y. York, Jr., Air Corps (temporary lieutenant colonel, Air Corps).
Maj. Walter Hey Reid, Air Corps (temporary lieutenant colonel, Air Corps).
Maj. John Bellinger Patrick, Air Corps (temporary lieutenant colonel, Air Corps).

TO BE LIEUTENANT COLONELS WITH RANK FROM DECEMBER 13, 1940

Maj. Edward Joseph Curren, Jr., Infantry.
Maj. LeRoy Edmund McGraw, Infantry, subject to examination required by law.

TO BE LIEUTENANT COLONEL WITH RANK FROM DECEMBER 15, 1940

Maj. Earl Hamlin DeFord, Air Corps (temporary lieutenant colonel, Air Corps).

TO BE LIEUTENANT COLONEL WITH RANK FROM DECEMBER 21, 1940

Maj. Byron Adrian Falk, Signal Corps.

TO BE MAJOR WITH RANK FROM DECEMBER 19, 1940

Capt. Martin Hamlin Burckes, Field Artillery.

POSTMASTERS

ALABAMA

James F. Wilson to be postmaster at Wedowee, Ala., in place of J. H. Kerr, removed.

CALIFORNIA

Margaret J. S. Gilman to be postmaster at Gilman Hot Springs, Calif. Office became Presidential July 1, 1940.
Charles E. Timmons to be postmaster at Kernville, Calif. Office became Presidential July 1, 1940.
William H. Stuart to be postmaster at Point Arena, Calif., in place of W. H. Smith, retired.
Roberta L. Sweet to be postmaster at Yermo, Calif., in place of Knox Lofland, deceased.

CONNECTICUT

Joseph A. Douda to be postmaster at Eagleville, Conn., in place of Edward Champlion, deceased.

Roy A. Parmelee to be postmaster at Weatogue, Conn. Office became Presidential July 1, 1940.

FLORIDA

Burton H. Rawls to be postmaster at High Springs, Fla., in place of B. H. Rawls. Incumbent's commission expired April 24, 1940.

ILLINOIS

Lloyd A. Cooper to be postmaster at Cordova, Ill. Office became Presidential July 1, 1940.

William B. Martin to be postmaster at Eldred, Ill. Office became Presidential July 1, 1940.

Charles E. Kelley to be postmaster at Franklin Grove, Ill., in place of G. H. Fruit, removed.

Henry B. Gramann to be postmaster at Marine, Ill. Office became Presidential July 1, 1940.

INDIANA

Mabel A. Price to be postmaster at Griffin, Ind. Office became Presidential July 1, 1940.

IOWA

Clarence B. Brooker to be postmaster at Ames, Iowa, in place of A. K. Shane. Incumbent's commission expired June 25, 1940.

John H. Gribben to be postmaster at Newton, Iowa, in place of J. H. Gribben. Incumbent's commission expired June 1, 1940.

Joseph F. Courtney to be postmaster at Thornton, Iowa, in place of H. W. Alexander. Incumbent's commission expired May 10, 1940.

KANSAS

Ella M. McGinity to be postmaster at Humboldt, Kans., in place of W. A. Hess, deceased.

Seth J. Abbott to be postmaster at Jetmore, Kans., in place of O. M. Koontz. Incumbent's commission expired April 24, 1940.

KENTUCKY

Ella E. Thompson to be postmaster at Ewing, Ky., in place of Minnie Heflin, removed.

Bertha Stanley to be postmaster at Mortons Gap, Ky. Office became Presidential July 1, 1940.

Wilmer H. Meredith to be postmaster at Smiths Grove, Ky., in place of J. R. Garman, removed.

LOUISIANA

Claud Jones to be postmaster at Longleaf, La. Office became Presidential July 1, 1940.

Amelie P. Woods to be postmaster at Lutcher, La., in place of M. P. Prescott, retired.

Helen C. Campbell to be postmaster at Morganza, La. Office became Presidential July 1, 1940.

Clyde A. Crawford to be postmaster at Pearl River, La. Office became Presidential July 1, 1940.

MAINE

Bessie Hazel Garnache to be postmaster at Biddeford Pool, Maine, in place of C. D. Garnache, deceased.

MARYLAND

Walter G. Mann to be postmaster at Sharptown, Md. Office became Presidential July 1, 1940.

MASSACHUSETTS

Helen E. Bateman to be postmaster at Dudley, Mass. Office became Presidential July 1, 1940.

MICHIGAN

Alfred H. Pfau to be postmaster at Howell, Mich., in place of A. H. Pfau. Incumbent's commission expired April 29, 1940.

MINNESOTA

Grace P. Holecek to be postmaster at Jackson, Minn., in place of F. M. Holecek, resigned.

Oscar A. Olson to be postmaster at Keewatin, Minn., in place of O. A. Olson. Incumbent's commission expired February 5, 1940.

Marguerite Mealey to be postmaster at Monticello, Minn., in place of Marguerite Mealey. Incumbent's commission expired June 25, 1940.

Donald W. McNeil to be postmaster at Park Rapids, Minn., in place of S. D. Wilcox, removed.

Herman I. Nelson to be postmaster at Spicer, Minn., in place of H. I. Nelson. Incumbent's commission expired June 25, 1940.

Simon E. Drury to be postmaster at Wabasha, Minn., in place of J. H. McCaffrey, deceased.

Arthur G. Erickson to be postmaster at Willmar, Minn., in place of E. C. Wellin, removed.

MISSOURI

Fred Hulston to be postmaster at Ash Grove, Mo., in place of O. W. Anglum, resigned.

Joe Melvin Hux to be postmaster at Essex, Mo., in place of Roy Clodfelter, removed.

NEVADA

Hilda W. Reeves to be postmaster at McDermitt, Nev. Office became Presidential July 1, 1940.

NEW HAMPSHIRE

Addie F. Danforth to be postmaster at Danbury, N. H. Office became Presidential July 1, 1940.

NEW MEXICO

Ruby G. Holt to be postmaster at Oil Center, N. Mex. Office became Presidential July 1, 1940.

Howard K. Shaw to be postmaster at Quemado, N. Mex. Office became Presidential July 1, 1940.

NEW YORK

Samuel J. Hand to be postmaster at Genoa, N. Y. Office became Presidential July 1, 1940.

NORTH CAROLINA

Robert C. Warlick to be postmaster at Jacksonville, N. C., in place of A. G. Walton. Incumbent's commission expired June 25, 1940.

Harold W. Webb to be postmaster at Morehead City, N. C., in place of H. O. Phillips. Incumbent's commission expired June 17, 1940.

PENNSYLVANIA

Mary F. Woods to be postmaster at Blain, Pa., in place of S. M. Woods, deceased.

Stanley A. DeWitt to be postmaster at Tunkhannock, Pa., in place of G. L. Titman. Incumbent's commission expired June 25, 1940.

SOUTH CAROLINA

Richard T. Hallum, Jr., to be postmaster at Pickens, S. C., in place of E. B. Hiott. Incumbent's commission expired January 20, 1940.

J. Charles Vassy to be postmaster at Timmonsville, S. C., in place of A. H. Askins, removed.

SOUTH DAKOTA

John C. Heinricks to be postmaster at Artesian, S. Dak., in place of Harold Hollingsworth, removed.

Lucy I. Wright to be postmaster at Hoven, S. Dak., in place of L. I. Wright. Incumbent's commission expired June 16, 1940.

TENNESSEE

Mary S. Franklin to be postmaster at Madisonville, Tenn., in place of R. T. Lee, removed.

TEXAS

Robert P. Taylor to be postmaster at Bivins, Tex., in place of Jack Jones, transferred.

UTAH

Rudolph Nielsen to be postmaster at Milford, Utah, in place of J. C. Root, resigned.

WISCONSIN

William H. Meyer to be postmaster at Cecil, Wis., in place of L. K. Herning. Incumbent's commission expired January 18, 1939.

Alex W. Quade to be postmaster at Jackson, Wis., in place of M. G. Gumm, removed.

Charles J. McAfee to be postmaster at Montello, Wis., in place of C. J. McAfee. Incumbent's commission expired July 30, 1939.

Byron A. Delaney to be postmaster at Reedsville, Wis., in place of F. J. Kugle, deceased.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 4 (legislative day of September 18), 1940

UNITED STATES DISTRICT JUDGE

Ingram M. Stainback to be United States district judge for the district of Hawaii.

POSTMASTERS

ILLINOIS

Edna A. Bauser, Bunker Hill.
Winifred J. Ranger, North Aurora.

PENNSYLVANIA

H. Leon Breidenbach, Boyertown.

HOUSE OF REPRESENTATIVES

FRIDAY, OCTOBER 4, 1940

The House met at 12 o'clock noon, and was called to order by the Speaker.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Lord, our Lord, we thank Thee for life. Its highest reach is very simple and very grand. It declares the practice of a greatly gracious soul, seeking to be good and to do good, in magnificent daring for the sake of others. We pray Thee to endow us richly with the immortal graces of love and gratitude. Give wisdom that we may know how to use authority and discretion that the use of power may be restrained. Impress us that problems and difficulties should always yield to one solution and that is, a high sense of right. Almighty God, we love our country. What thoughts can exhaust our wonder, what words can express our gratitude for the countless numbers who have died for us. We break our alabasters of thanksgiving upon the memories of those who have made possible our Christian institutions. We pray that we may ever firmly resolve that we would rather die than to live in a world ground down by falsehood and brutality. Let the divine voice call out from the breast of humanity, pursuing all tyrannies to their lowest depths until they reach the margin of the world. In the name of our ever-living Saviour—the Man of Nazareth. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 10412. An act to expedite the provision of housing in connection with national defense, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 960) entitled "An act extending the classified executive civil service of the United States."

The message also announced that the Senate insists upon its amendments to the bill (H. R. 10094) entitled "An act to require the registration of certain organizations carrying on activities within the United States, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CONNALLY, Mr. BURKE, and Mr. DANAHER to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 4341. An act to expedite national defense by suspending, during the national emergency, provisions of law that prohibit more than 8 hours' labor in any 1 day of persons engaged upon work covered by contracts of the United States Maritime Commission, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate No. 5 to the bill (H. R. 10464) entitled "An act to assist in the national-defense program by amending sections 3477 and 3737 of the Revised Statutes to permit the assignment of claims under public contract."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 4107) entitled "An act to transfer the jurisdiction of the Arlington Farm, Virginia, to the jurisdictions of the War Department and the Department of the Interior, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SHEPPARD, Mr. REYNOLDS, Mr. THOMAS of Utah, Mr. MINTON, Mr. AUSTIN, and Mr. GURNEY to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2103) entitled "An act to exempt certain Indians and Indian tribes from the provisions of the act of June 18, 1934 (48 Stat. 984), as amended," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THOMAS of Oklahoma, Mr. WHEELER, and Mr. FRAZIER to be the conferees on the part of the Senate.

LETTER FROM THE CLERK OF THE HOUSE TRANSMITTING MESSAGE FROM THE SENATE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives, which was read:

OCTOBER 4, 1940.

The SPEAKER,
House of Representatives, Washington, D. C.

SIR: Pursuant to the special order agreed to on October 3, 1940, the Clerk of the House received on that day the following message from the Senate:

That the Senate had passed, with amendments in which the concurrence of the House is requested, the bill (H. R. 10539) entitled "An act making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes."

The message also announced that the Senate insists upon its amendments to the afore-mentioned bill; requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon; and appoints Mr. ADAMS, Mr. GLASS, Mr. MCKELLAR, Mr. HAYDEN, Mr. BYRNES, Mr. HALE, and Mr. TOWNSEND conferees on the part of the Senate.

Respectfully yours,

SOUTH TRIMBLE,
Clerk of the House of Representatives.
By H. NEWLIN MEGILL.

FOREIGN SHIPMENTS BY THE DU PONTS

Mr. SABATH. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. SABATH]?

There was no objection.

Mr. SABATH. Mr. Speaker, on September 24, I placed in the RECORD an article by Mr. Guy Richards, New York correspondent of the Chicago Tribune press service, and made some comments thereon.

The article charged that foreign agents in the Du Pont Powder Co. offices "guide war goods to Axis" to the extent of $10,000,000 monthly, and reads in part as follows:

AGENTS IN DU PONT OFFICES GUIDE WAR GOODS TO AXIS—UNITED STATES TRADE WITH GERMANY, ITALY PUT AT $10,000,000 MONTHLY

(By Guy Richards)

NEW YORK, September 23.—Despite the British blockade, American industrialists have found corkscrew routes for pouring into

Germany and Italy about $10,000,000 worth of vital war materials every month.

Vast stores of oil, copper, machinery, and cotton are finding their way to Axis territory through Arctic Ocean ports, Spain, Portugal, Cuba, Mexico, and Russia.

BACKED BY BIG BUSINESS

At least five nations are lending their services to American businessmen who have found gold-lined routes for shipping blockade-barred goods into Germany.

These scattered suppliers, dealing through their New York headquarters, have established contacts with agents all over the world. The agents are sponsored in this country by amazingly influential business interests.

It was learned, for example, that the American representative of Juan March, financial backer of General Franco, Spanish dictator, has his desk in the offices of Francis I. du Pont Co., at 1 Wall Street. He receives a regular salary from the firm, which is engaged in the commodity and brokerage business.

BRANCH IN WILMINGTON

Three members of the famous Wilmington (Del.) clan that controls E. I. du Pont de Nemours are partners in this Wall Street firm, which also has a branch in Wilmington. The interest of its senior member, Francis I. du Pont, is secured with 2,000 shares of Hercules Powder common stock—an investment which was forced out of direct Du Pont control by a Sherman antitrust suit of 1912.

Another desk in the Francis I. du Pont office is occupied by Avelino Montes, Jr., the man whom German firms here know as the expert on how to get shipments through Mexico.

The two men—Jose M. Mayorga, Spanish emissary of Franco's Juan March, and Mexico's Avelino Montes—sit side by side in a comfortable suite in the Du Pont offices, on the ninth floor of the building. They are intimate friends and former classmates at the Harvard Business School. By manufacturers anxious to obtain deliveries in Germany they are known as exactly the right people to see.

Yesterday I received a telegram from W. S. Carpenter, Jr., president of E. I. du Pont de Nemours & Co., taking exceptions to the article and my reference thereto which might indicate that the Du Ponts are being taken advantage of. Regardless of how much I may disagree with a person or an organization, my policy has always been to try to be fair. Therefore, I feel honor bound to give the Du Pont viewpoint the same publicity in the RECORD that I accorded to the article of the Chicago Tribune correspondent. I ask unanimous consent to present it.

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. SABATH]?

Mr. RICH. Mr. Speaker, reserving the right to object, I may say that it was given out last year that less than 3 percent of the volume of the Du Pont's business comprised war munitions, so that the people have the wrong idea with reference to the Du Ponts manufacturing and exportation of materials of war.

Mr. SABATH. I do not represent them; nevertheless, in justice to them, I feel they are entitled to have this telegram in the RECORD.

Mr. RICH. That is the reason I make the statement. It is in justice to the Du Ponts. I do not own any Du Pont stock. I wish I did.

Mr. SABATH. Neither do I.

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. SABATH]?

There was no objection.

Mr. SABATH. The telegram reads as follows:

WILMINGTON, DEL., *October 2, 1940.*

Hon. ADOLPH J. SABATH,
House of Representatives:

My attention was called only today to address you made in House of Representatives September 24 and news article on which you premised your statement. As president of E. I. du Pont de Nemours & Co., I deny categorically all allegations with reference to this company. Reports to which you give credence that "the Du Ponts and their affiliates are monthly exporting $10,000,000 worth of war munitions that finally reach aggressor nations" are wholly untrue. Factually this company has made no munitions shipments whatsoever to any Axis Power directly or indirectly. Because of your interest permit me to advise you regarding our export sales of military powers. From 1933 through 1938 total gross export sales by this company amounted to $895,912. For same period Remington Arms, only affiliate of this company making military products, had gross sales from export of $2,044,634. In 1939 our gross sales from export totaled $475,964 and for Remington for same year $123,068, a combined monthly average of $49,919. For first 8 months of current year our gross sales from export amounted to $1,179,205, with bulk of these sales to Great Britain, China, Finland, and France. Remington sales for same 8 months, $1,341,856, mostly to Great Britain and France. Monthly average for both companies in this period is only $315,133. Not one pound of munitions has been sold by this company or Remington to Germany, Italy, or Japan. Nor do we have any reason to suspect that one pound eventually reaches the Axis Powers. How preposterous the charge we are exporting $10,000,000 worth munitions monthly that finally reach aggressor nations. We cannot but feel keenly when we read such unfounded allegations at a time when we are placing our facilities, our understanding in manufacture, our perseverance and determination to do everything that may be expected of us in serving this Nation and true democracy. I have every confidence foregoing will convince you grave injustice has been done Du Pont and American industry, and that in the interest of truth and accuracy you will want to read this telegram to the House and place it in the CONGRESSIONAL RECORD.

W. S. CARPENTER, Jr.,
President, E. I. du Pont de Nemours & Co.

Mr. SABATH. It will be noted that Mr. Carpenter does not answer many of the specific statements made by Mr. Richards, whose article appeared in various newspapers. It may be that the good intentions of the Du Pont firm have unsuspectingly been taken advantage of.

In any event, I have placed Mr. Carpenter's telegram in the RECORD, as he requested, and no doubt Mr. Richards, of the Chicago Tribune Press Service, will want to express his further views on the subject.

SIDNEY HILLMAN

Mr. ROUTZOHN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute and to revise and extend my own remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio [Mr. ROUTZOHN]?

There was no objection.

Mr. ROUTZOHN. Mr. Speaker, a few days ago Mr. Sidney Hillman, labor member of the National Defense Advisory Commission, asked the Attorney General of the United States for an opinion or a ruling that companies adjudged by the Labor Board to be in violation of the National Labor Relations Act should be barred from Government contracts.

In one of his justly famous messages the Attorney General has given the ruling required of him.

Even this pliable Attorney General could find no basis in law for this contribution to confusion. In fact, Congress refused to pass such a law last year and the year before. The Attorney General's informal opinion cited no law, no statute, no court decisions.

His message is a masterpiece of the kind of short-cut reasoning with which the National Socialists have confused logical and sensible people in giving to their lawless acts the disguise of legality.

Thus, without sanction of law, does he seek to turn our national-defense production over to the whims of this intriguing, Communist-infested agency of the administration, an agency that the record shows has gone out of its way to sabotage industry and create national disunity.

Now, I ask, What does this mean? What is really behind it? Is it just a slick political trick on the eve of election to make it appear that the workers and the management are quarreling, to throw them into apparent opposition upon a question manufactured for the purpose, in irresponsible disregard of the effect upon national defense and national unity? Or is it another of those overclever flank moves of the left-wingers toward national socialism and the political ownership of property?

Is it, in fact, the first move toward the confiscation of property under the cloak of national defense, using the argument that the unlawful acts of the management, as found by the Labor Board and the "yes, sir" Attorney General, make it necessary for the political tools to take over the plant?

Let us get this out in the open right now.

If we are going to do this thing, if we are going to bar the Government from contracting with producers who fall into disfavor with a Government agency, then let us do it honestly by law and not by a curbstone opinion of a pliable dispenser of easy short cuts around the law.

And let us not confine this to the Labor Board. Let us be consistent and say that any person who is in conflict with or who has been found in violation of any ruling by any

Government agency shall be barred from Government contracts and participation in the national defense.

Why single out the Labor Board, which the record shows to be the most unreliable of all the Government agencies? If it is a sound principle in law, let us make it apply to all agencies of the Government. [Applause.]

My friend Judge Cox, of Georgia, hands me a list of companies who would be barred from participation in national defense, because they have pending appeals from National Labor Relations Board orders:

General Motors Corporation.
Swift & Co.
Phelps Dodge Corporation.
Wilson & Co.
John A. Roebling Sons Co.
Colorado Fuel & Iron Corporation.
Dow Chemical Co.
H. A. Heintz Co.
Westinghouse Electric & Manufacturing Co.
Automotive Maintenance & Machinery Co.
Bethlehem Steel Co.
Vincennes Steel Co.
Alloy Cast Steel Co.
John Deere Tractor Co., Inc.
Owens-Illinois Glass Co.
E. I. du Pont de Nemours Co.
Ford Motor Co.
National Cash Register Co.
Combustion Engineering Co.
Montgomery Ward & Co., Inc.
United States Pipe & Foundry Co.
Goodyear Tire & Rubber Co.
Standard Oil of Indiana.
The Texas Co.
The Nevada Consolidated Copper Corporation.
Phillips Petroleum Co.
P. Lorillard Co.
Valley Steel Products Co.
Maltrup Steel Products Co.
Florence Pipe Foundry & Machine Co.
Lincoln Engineering Co.
Solvay Process Co.
Illinois Tool Works.
McQuay-Norris Manufacturing Co.
Mathieson Alkali Works.
International Shoe Co.
Kirkham Engineering & Manufacturing Co.
Marlin-Rockwell Corporation.
Todd Shipyards Corporation.
Robins Drydock & Repair Corporation.
Acme Air Appliance Co., Inc.
Radburn Motors Co.
Chicago Apparatus Co.
Stornar Manufacturing Co.
Dain Manufacturing Co.
Arma Engineering Co.
Washougha Woolen Mills.
Windsor Manufacturing Co.
Bloomfield Manufacturing Co.

This shows how the National Labor Relations Board is being used to sabotage our national defenses and scuttle private industry.

POINT OF ORDER

Mr. KELLER. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. The Chair will count.

Mr. KELLER. Mr. Speaker, I withdraw the point of order.

HOUSING IN CONNECTION WITH NATIONAL DEFENSE

Mr. LANHAM. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 10412) to expedite the provision of housing in connection with national defense, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and ask for a conference.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. LANHAM]?

There was no objection, and the Speaker appointed the following conferees on the part of the House: Mr. LANHAM, Mr. CROWE, and Mr. HOLMES.

EXTENSION OF REMARKS

Mr. HINSHAW. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a letter addressed to the editor of the New York Times on September 15.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BRADLEY of Michigan and Mr. CUMMINGS asked and were given permission to extend their own remarks in the RECORD.

Mr. SMITH of Ohio. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a radio address I delivered last night.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. KEAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. KEAN. Mr. Speaker, I see that the gentleman from New Jersey [Mr. HART] is on the floor, and I rise to ask him one question. Last winter there was a question of a fifth Federal judgeship in the State of New Jersey. I objected to it and said I did not think it was necessary. Up to now this fifth Federal judge has not been appointed. I wonder how come, if it was so necessary.

Mr. HART. I may say in reply to the gentleman from New Jersey that he will have to seek the information in some other quarter.

[Here the gavel fell.]

Mr. ANGELL. Mr. Speaker, I ask unanimous consent that on next Monday, at the conclusion of the legislative program of the day and following any special orders heretofore entered, I may be permitted to address the House for 30 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PEACE

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that today at the conclusion of the legislative program I may be permitted to address the House for 15 minutes on the subject of peace.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER. Does the gentleman from Minnesota desire to proceed at this time?

Mr. ALEXANDER. I will, Mr. Speaker.

The SPEAKER. The gentleman from Minnesota is recognized for 15 minutes.

Mr. ALEXANDER. Mr. Speaker, peace is still the desire of an overwhelming majority of the American people; but while billions of dollars have been appropriated out of necessity to prepare for war, should it be forced upon us, no special funds have been appropriated to prepare for peace.

From a realistic viewpoint we know that we get what we prepare for. Is it not true?

If there is no adequate study and preparation for a just and lasting peace, we will never, never find such a peace, whether we go into or stay out of this war, whether we arm to the teeth or slide along. Peace, like anything else, must be prepared, must be purchased at a price.

That price is very low and very reasonable as compared to the costs of war. I have just asked the House Appropriations Committee what we have authorized and appropriated this year for war. The answer: Approximately $17,000,000,000.

I have today introduced a resolution asking for a very small appropriation, comparatively speaking, to be used to "prepare for peace." I am asking that we set aside only $50,000,000, and I hope speedy and favorable action will be taken on this very fundamental request.

My resolution is as follows:

PREPARE FOR PEACE

Whereas the Seventy-sixth Congress has appropriated or authorized about $17,000,000,000 for military preparedness; and

Whereas an important national election is now impending, when all peace-loving citizens will justly challenge on their record their former representatives: Now, therefore, be it

Resolved, That this Congress promptly prove that we are not limiting preparation for defense to military means only, but are also attempting to prepare for defense and security by nonmilitary means, such as bona fide efforts for peace; and to this end be it further

Resolved, That the President be, and he hereby is, instructed to take immediate joint action with all possible like-minded governments of nations not at war in offering their services openly and publicly to the belligerents in the cause of peace; and be it further

Resolved, That in order to satisfy the longing for peace of all the peoples of the world a cessation of all hostilities under joint neutral supervision should be openly demanded, and at the same time the actual extension of the system of federation into a world union of nations should be offered and pledged to the belligerents by the joint neutrals as the only practical means of readjusting the status of newly conquered nations or long-held colonies and dominions, of under-privileged or over-privileged states, and permitting mankind to build a new and better civilization in safety, without fear of war and organized destruction: Therefore be it

Resolved, That in order to finance the above-described program of joint neutral efforts for the present and future of the world, the House of Representatives (the Senate concurring) hereby appropriates $50,000,000 as our safest and least costly defense.

This is made especially desirable and needful by reason of the recent alliance agreement of the axis powers, which makes Japan, Italy, and Germany into a powerful military alliance.

PACIFIC PROBLEMS

The outcome of the axis struggle for power is a very important matter because it presents to us a two-ocean peril. Manifestly it would be folly for the United States not to prepare in every way for the possible eventuality of a German-Italian victory, sudden or gradual.

I wonder if it is generally recognized that the peril in which we would then be placed extends to two oceans? Japan's position would be greatly enhanced by the inevitable weakening of British as well as the collapse of the French power and prestige in the Orient—exactly as I pointed out in my address in the House on February 22, 1939, entitled "Is Democracy in Guam?"

DIVISION OF AMERICAN SEA POWER

This would be accompanied in the United States by an immediate logical demand that a large part of the American Navy be transferred from the Pacific to the Atlantic. American naval forces would then be extended along two vast ocean fronts—responsible for the protection of two continents on both the east and the west. They would be faced by a combined sea power greater than their own, backed by superior shipbuilding facilities.

The Atlantic, inadequately defended except along our own coast line and in the Caribbean, might then be circumvented as was the Maginot line. In the Pacific the withdrawal of a large part of the American Navy would promptly remove the chief remaining obstacle to Japanese expansion, by stages, over Shanghai, Hong Kong, Indochina, the Dutch East Indies, Singapore, Australia, New Zealand, and eventually the Philippines. Successive steps in such a program, clearly contemplated by Japanese leaders, would reinvigorate Japan's morale, strengthen her position against China, provide needed sources of vital supplies, and make untenable the position of Burma and India. Thus, Asia, with one-half of the world's population, would come, like Europe, under the domination of an aggressive dictatorship.

Germany, to be sure, would probably seek to keep Japan within bounds in order to obtain as large a share in the expansion—especially at Singapore and the Dutch East Indies—as possible, and to maintain for herself a position of dominance in German-Japanese relations. This may account for current reports of friction between the two countries. But Hitler has shown his capacity, in dealing with Russia, to make sweeping, if temporary, compromises in order to concentrate his energies elsewhere. Japan's continued expansion, moreover, would offer a means toward checking further resistance from outlying parts of the British Empire; it would, at the same time, strengthen a potential ally against the United States. So long as the United States remained the chief obstacle to the revolutionary ambitions of both nations, it is as dangerous to assume that their realistic negotiators would be unable to get together as it was for the British to rely upon irreconcilable friction between Germany and Russia.

The United States, with its vast commitments in this hemisphere, would then be exposed to a gigantic squeeze play, with Germany and Italy dominating Europe and Africa on the one side and Japan largely dominating eastern Asia and the southern Pacific on the other. Under such circumstances the positions of Russia and the United States would be increasingly critical.

The question is thus whether we should not move, if we can do so swiftly and effectively, to prevent such a world-wide alinement of militant dictatorships against us. For clearly we are not prepared for an emergency of such magnitude, and it seems to me that the best way out is a move for a peace organization such as is suggested in the above resolution.

HIGH COST OF WAR

It cost about 75 cents to kill a man in Caesar's time. The price rose to about $3,000 per man during the Napoleonic wars, to $5,000 in our Civil War, and then to $21,000 per man in the World War. But estimates for the present war indicate that it may cost the warring nations not less than $50,000 for each man killed. In other words, shall we appropriate what it costs to kill 1,000 men and thus save millions of men, women, and children? At the price set in my resolution of $50,000,000 for a program to promote peace, if it were used for war, it would kill only 1,000 at present rates, but it might save millions, if spent for peace. [Applause.]

Mr. RICH. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RICH. Mr. Speaker, the gentleman who just preceded me gave a very interesting talk and one that it seems to me should receive more consideration from the House of Representatives. And I shall extemporaneously comment on things pertaining to the subject of war, and so forth.

This country at this time, in my judgment, is in a very precarious condition. We as a Congress are going ahead with these great appropriations and preparation for war and if we continue as we have been doing for the last 30 days, I venture the assertion that within 6 months we will actually be in war, and nothing more detrimental could happen to the American Nation, American life, or American property, or American independence and freedom. As was stated by the gentleman, it is costing $50,000 to kill a man in warfare. Why, gracious goodness, we ought to be thinking of what we can do to save life instead of trying to destroy it, and that was the main point in what the gentleman from Minnesota brought out. He wants to save life and wants to protect American boys and not let anything that may happen in this country lead us into the war at such great cost of life, cost of happiness, cost in sorrow, and cost in misery.

You know the thing that impressed me this morning when we had the prayer by our beloved Chaplain, and it is something that impresses me every morning when the Chaplain gets up here and asks for divine guidance for the House of Representatives, for the Senate, and for the President, when there are not over 25 or 30 Members present at our prayer service—the thought was in my mind when the gentleman from Illinois, awhile ago, wanted to ask for a quorum, why can we not ask for a quorum just before the Chaplain of the House of Representatives leads us in prayer? If we could do that and the Members of the House would listen to the prayers that are being offered by the Chaplain of the House, it would probably be the best lesson and the best speech we could put before this House each day. It would help all and would not injure one person. If the membership would heed what is stated in asking for divine guidance, it might be the cause of turning the hearts of the Members of the Congress of the United States to the point where they would try in some manner, to a greater degree, to keep this country out of war. I believe that nothing better could be done than to invite the membership of the House to be

present before the Chaplain offers his prayer. Let us hope our attendance at the opening exercise will be greater in number.

Mr. VAN ZANDT. Mr. Speaker, will the gentleman yield?

Mr. RICH. I yield to the gentleman from Pennsylvania.

Mr. VAN ZANDT. Does the gentleman feel that a majority of the American people are in favor of our keeping out of this war?

Mr. RICH. Well, I would have said 6 months ago there was not a man in the United States who wanted war, but when we see the propaganda that is going on today, it is certainly amazing what a change is taking place in the minds of our people. I was at the Translux Theater last night and if there was ever any propaganda for getting this country into war offered, it was brought out there. You can go to any theater or almost any public place now or read almost any of the papers and you will see that they are creating the sentiment that we ought to get into this war. I hope and pray that the Congress will not be so foolish and that the membership of this House will say that we are not going to vote for war.

I wrote a letter this morning to a person who wanted to know whether I was in favor of sending our boys abroad. I have said time after time that I do not believe that anything can happen, I do not believe that any act they might commit in Europe or in Asia could be bad enough to cause me to vote to send one boy over to Europe to be slaughtered, because I believe that is none of our business and we should not ever think of sending a man across the water again to fight to make the world safe for democracy; we tried it once and it failed, it failed terribly; just look at Europe today; and as far as I am concerned, I do not believe they will ever get me to vote to send a boy across either ocean; in fact, I am sure I will not do so; and if we will tell the President of the United States and Secretary Hull to do a little more toward minding their own business and staying over here and looking after America and the American people, I do not believe we will get into war.

Mr. PIERCE. Mr. Speaker, will the gentleman yield?

Mr. RICH. I yield to the gentleman from Oregon.

Mr. PIERCE. I take it from what the gentleman says that nothing would induce him to vote for a declaration of war, the driving off of the seas of our ships or anything else.

Mr. RICH. If anybody comes over here and attacks us I will be the first one to protect this country, but I am talking about a war of aggression and I believe, honestly, Governor, that we are building up this great war machine and doing everything we can with the idea that we will ultimately get into this war. I honestly believe that. If a man came up to you and knocked your hat off, you would not shoot him. You would either have him arrested or try to convince him he was doing what he should not do, and by kindness win his affection.

Mr. PIERCE. Does the gentleman think that Great Britain is in this war voluntarily?

Mr. RICH. No; but it is not our business to kill American boys and girls to protect Great Britain, if you want to know my answer to that. [Applause.]

Mr. ARNOLD. Mr. Speaker, will the gentleman yield?

Mr. RICH. I yield to the gentleman from Illinois.

Mr. ARNOLD. Does the gentleman know of one Member of the House who wants to join the war over there?

Mr. RICH. No; I do not know a Member of the House——

[Here the gavel fell.]

Mr. RICH. Mr. Speaker, I ask unanimous consent to proceed for 5 more minutes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KELLER. Give him 5 more minutes.

Mr. RICH. If you will give me 5 minutes, I will say this: If you give Great Britain and the people who are putting forth the policy of urging us to sell overage ships, to sell overage tanks, which they are doing right now, and to sell overage guns, and call our Navy overage and call anything else overage, I believe within a short time they would get 150 Members to say that we would enter that war.

Mr. KELLER. Do what?

Mr. RICH. Get us into this war.

Mr. KELLER. Is the gentleman one of them?

Mr. RICH. No; I am telling you that I am not. But let Mr. Roosevelt tell you that he wants to go to war, and I would like to know what your answer would be.

Mr. KELLER. You know very well what it would be without my telling you.

Mr. RICH. You bet your life I think I know. I think you would vote right with him, because you have voted that way for the last 8 years.

Mr. KELLER. Now I want to answer that.

Mr. RICH. You have voted that way most every time for the last 8 years. I do not care who the man is who has followed this New Deal and voted for New Deal policies for the last 8 years, he is only trying to set up in this country a dictatorship. I do not care what man in the House tries to challenge me on what I say, because I am not trying to hurt anybody, but I am telling you that if we want to keep America safe, if we want to follow our Constitution, if we want freedom of the press, freedom of religion, and freedom of speech, you cannot do what we have done in the last 7 years, can you?

Miss SUMNER of Illinois. Is the gentleman addressing me?

Mr. RICH. Certainly. You are about as sensible-looking person as I have ever seen. [Laughter.]

Miss SUMNER of Illinois. Thank you. You know, when a man cannot say that a woman is good looking, the next best thing is to call her sensible. [Laughter and applause.] I think the gentleman is right and I think the gentleman from Minnesota [Mr. ALEXANDER] is right. I have every reason to think, from friends in Great Britain who are here for the duration, that not only the people of Great Britain but the people of Germany would like peace if they could have a just peace, but I think it is today as it was in 1917—neither nation wants to lose face. If either one could have a just peace, I am sure they would be glad to have it and take it without exhausting themselves. I think there is only one nation powerful enough today to offer such a peace; that is the United States; but I very much fear that we have placed ourselves in a position where they do not trust us. They fear we are going to try to be straight shooters instead of square shooters. [Laughter and applause.]

Mr. RICH. That is right. I thank the lady for that very intelligent statement. I agree with her 100 percent. I want to say that Great Britain does not want to fight. The people of Germany do not want to fight. The people of Spain are so sick that they do not want to get in it. I do not believe the Italian people want to fight. I think if we were in a position where we could have a man who could say to those nations, "Why don't you put these things aside, stop wrecking your cities, and stop killing your people," it would be the finest thing in the world. But where have we gotten ourselves? What is the position of our country now in being an arbitrator?

Miss SUMNER of Illinois. It seems to me that anything of that sort we might do before election would be apt to bear the imputation of having political motives, but that after election the Congress could very suitably pass some such resolution.

Mr. RICH. If we do that, I will say that you cannot have anyone who has said, "Mr. Mussolini stuck us in the back," and expect him to be an arbitrator. You know you could not have a man like that, so you have to find somebody else. The only logical man to find is a new President, a new man, who can take a position whereby the people of this world will have confidence in him and have faith in him. That is the kind of a man we will have. [Applause.]

Miss SUMNER of Illinois. Will the gentleman yield?

Mr. RICH. Yes; I will yield to you forever if you will get up here and take my place and condemn war and all its horrors.

Miss SUMNER of Illinois. I want to warn the gentleman that it is very dangerous to say "peace" nowadays, because you run the risk of being called an "appeaser."

Mr. RICH. If anybody says that I am a "fifth columnist" just because I want to talk peace, and I want to keep this Nation out of war, they had better look out and stay far enough away from me, because I am not going to take it. [Laughter.] I think the time is here when we have got to talk plain. I think the time is here, if we want to have a united America that will try to solve the problems of Europe and Asia and stop the war between China and Japan and stop the war in Germany and Italy and England and all of the other countries, we must have a man in America that the Americans have faith in; we must have a man in America that the foreign countries have faith in, or we are going to lose the very position that you would like to have us in—the position of respect we desire among all nations of the world.

Miss SUMNER of Illinois. Well, I do not trust any man too far, as you know [laughter and applause], but I think that after election the Congress chosen by the people of the United States might form a nonpartisan board for that purpose, appointed by whomever shall be President.

Mr. RICH. Well, I think that is a good suggestion. Whoever is elected in November, as much as I think about some people that might be elected, I will say that it is our duty to bite our lips, get together, both Democrats and Republicans, and say that we are Americans first, and do anything we can to protect our Constitution, our country, and our people.

However, we are coming to the time when there will be an election, and I say right here that I am not for one certain man for President.

Mr. PIERCE. Mr. Speaker, will the gentleman yield?

Mr. RICH. I yield.

Mr. PIERCE. I want to know if the gentleman really knows what is going on in the world. I want to know if the gentleman has read Mein Kampf, Hitler's own book. Has he read what Hitler is doing; what Hitler is attempting to do; what he says he is going to do? Does the gentleman know anything about it? He does not talk as if he did.

Mr. RICH. I may say to the gentleman from Oregon that Mr. Hitler never took me into his confidence; he never told me what he was going to do, and I do not think he will ever do all he says he will do in his book. I do not think he can do it, if you mean he is coming over next to bottle us here in America.

Mr. PIERCE. The gentleman speaks as if he did not know what was going on in the world, or what Hitler has said.

Mr. RICH. I would not put any faith in that. I have no faith in any statement he makes. But I can tell the gentleman very positively I am never going to salute "heil Hitler," nor am I going to salute "heil Roosevelt." I will be shot first. [Applause.]

Mr. PIERCE. The gentleman just does not know what is going on in the world.

[Here the gavel fell.]

Mr. MICHENER. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for 1 additional minute.

The SPEAKER pro tempore [Mr. McCORMACK]. Without objection, it is so ordered.

There was no objection.

Mr. MICHENER. Mr. Speaker, will the gentleman yield?

Mr. RICH. I yield.

Mr. MICHENER. I may say to the gentleman from Pennsylvania that over the radio this morning I heard a program of questions to Mr. Willkie and what Mr. Willkie had to say in answer concerning his attitude toward the war. That program went out over a national hook-up. Later in the day I shall ask unanimous consent to extend my remarks by including that statement, and may I ask the House——

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. Not just now; may I ask the membership, if they did not hear that broadcast, to read the statement which I shall insert in the RECORD if permitted to do so?

Mr. RICH. I know Mr. Willkie is going to keep us out of war if he is elected President of the United States. I know he, if elected President of the United States, will use his every effort to bring about peace between nations. He will help all classes in this country, he will help the farmer, the laboring man, everybody in America, and spread abroad through this land the spirit of living under, abiding by, and living up to the Constitution of the United States. Mr. Willkie is going to be the man who will insure the continuance of freedom of speech, freedom of the press, and freedom of religion. And after the election we are all going to get together and help Mr. Willkie cement us together in the bonds of brotherly love so that we shall not only be able to help America but because of the position Mr. Willkie will have attained by that time he will be able to settle the differences of countries all over the world. Peace will come again to the nations on earth, happiness will abound everywhere, and the God of Heaven will reign eternally. [Applause.]

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. RANKIN. Mr. Speaker, of all the optimists of whom I have ever heard, the distinguished gentleman from Pennsylvania [Mr. RICH] is entitled to the blue ribbon when he stands here on this floor and tells you that Wendell L. Willkie, if, when, and provided this country should ever experience the calamity of having him for President, would inspire confidence, spread prosperity, and promote the peace of mankind. [Applause.]

The gentleman from Michigan [Mr. MICHENER] said he would place in the RECORD later a statement his candidate made as to what he proposed to do—if elected. If he heard Mr. Willkie say anything about what he intended to do, I advise him to put it in the RECORD now, before Mr. Willkie changes his mind or reads another speech written by somebody else. [Applause.]

I have heard with amazement, and read with confusion, the speeches delivered by Mr. Willkie on his western swing. I do not believe I have read anything or heard anything to compare with it since Don Quixote, with his wooden sword and paper crown, marched across the plains of western Europe to fight the windmills and the funeral processions with which he came in contact. There has not been such a spectacle in a national campaign since Andrew Gump made his famous bid for the Presidency a few years ago. [Laughter.]

Like Andrew Gump, Mr. Willkie seems to be all things to all men. He went out West and told the farmers he was going to lower the taxes on their lands. If he was serious when he made, or read that speech, which must have been written in New York, because anybody outside of Wall Street would have known that the President of the United States could not have anything to do with the taxes on the farmers' lands. [Applause.] If he was serious when he made, or read, that statement, he showed his ignorance of the farmers' problems. If he was not serious, he showed contempt for the farmers' intelligence.

He talks about democracy, after having been connected with one of the greatest monopolies in the country—one that has been engaged in breaking down our democracy for the last 20 years.

He talks about freedom of the press, after the utility of which he was the head went down to Chattanooga, Tenn., and used the money wrung from the helpless users of electricity to destroy a local newspaper because it was appealing for justice for the power consumers in the Tennessee Valley area.

Freedom of the press. He is evidently for freedom of the utility-controlled press only.

He stood before the farmers of Indiana and waved a receipt for his electric light and power bill and said his bill was too high, that the Rural Electrification Administration was overcharging him. He was at that moment advertising to the people of Indiana the fact that they never would have had electricity on the farms of that State if it had not been for the Rural Electrification Administration created by the Roosevelt administration. [Applause.]

He tells you he is for rural electrification. When did he get that way? I am one man in this House who can give you some evidence of his activities with reference to rural electrification. In my opinion, he is rural electrification's public enemy No. 1. The Commonwealth & Southern, of which he was the head, owns the Mississippi Power Co. That company built one short rural power line in the county in which I live—Lee County, Miss.—and they charged the farmers $3.25 a month "line charge," whether they used any electricity at all or not, and then charged 5 cents a kilowatt-hour for the electricity used. That made 25 kilowatt-hours of electricity a month cost a farmer on that line $4.50.

Our cooperative power association bought that line and is now charging $1.00 for 25 kilowatt-hours a month, and 25 cents of that $1.00 goes to help pay for the line, making 25 kilowatt-hours of electricity a month cost him 75 cents instead of $4.50, the amount charged by the Willkie utility when these farmers had no way of protecting themselves.

Remember it is the same line, the same farmer, and the same power. At that time the Commonwealth & Southern was buying this power wholesale from the Government at Muscle Shoals at 2 mills a kilowatt-hour, under a contract made with the Republican administration, but when a farmer on this line got 25 kilowatt-hours of it he paid Mr. Willkie's company $4.50.

Now the cooperative power association is buying this same Muscle Shoals power wholesale from the T. V. A. at 5.5 mills a kilowatt-hour, and the same farmer on the same line gets 25 kilowatt-hours a month for 75 cents instead of $4.50—or just exactly one-sixth of what he paid the Willkie company for it.

And I might add that his companies tried to kill off rural electrification by building spite lines as interferences until the farmers in some sections took their shotguns and ran the men who were building those spite lines off their lands.

Mr. Willkie stood on the banks of the Columbia River a few days ago and tried to lead the people of Oregon and Washington to believe that he was in favor of public power, after trying all these years to destroy the T. V. A., the greatest weapon the American people have ever had for their protection against the extortionate overcharges the private power companies have been exacting for electric energy.

Mr. Willkie pretends that he reduced light and power rates in the T. V. A. area, when as a matter of fact his companies never reduced rates in that section until the competition of the T. V. A. compelled them to do so; and they never reduced them elsewhere until the publication of the T. V. A. yardstick rates showed the people what electricity was worth, and an aroused public opinion forced them to lower their rates to keep down competition.

Mr. Willkie talks about common honesty in his attacks on the Roosevelt administration. In his speech at Seattle, Wash., he said:

> Nowadays it is about as hard to start a new business as it is to rob a bank, and the risks of going to jail are about as great in both cases.

The only new business organized in recent years with which Mr. Willkie has been connected that I know anything about, was the superholding company known as the Commonwealth & Southern. Every man connected with the gigantic fraud that was committed when that company was organized probably ought to have gone to jail.

According to the report of the Federal Trade Commission, it was one of the most brazen acts of its kind every committed. Was Mr. Willkie one of the guilty parties? We will let the record speak.

The record of the Federal Trade Commission shows that in February 1930 the Commonwealth & Southern was formed by the merger of four small companies, the Allied Power & Light Corporation, the Penn-Ohio Edison Co., the Commonwealth Power Corporation, and the Southeastern Power & Light Co.

The day those corporations were merged into the new Commonwealth & Southern the ledger value of their securities amounted to $340,896,260.27. They were placed on the books of the new Commonwealth & Southern Corporation, that same day, at $872,101,832.19, or a write-up of $531,205,571.92.

What did that extra $531,205,571.92 represent? It represented wind, water, and Power Trust rascality!

Do not take my word concerning this diabolical transaction, but let the record speak. I quote from the report of the Federal Trade Commission, which investigated this proposition:

> A table showing the ledger value of securities owned by each of the merged companies at the date of merger, and ledger values of the same securities as shown by the records of the Commonwealth & Southern Corporation on the same date, is presented below:

	Ledger value of securities owned as shown by books of—		Appreciation
	Merged companies	Commonwealth & Southern Corporation	
1	2	3	4
Allied Power & Light Corporation	$3,573,997.65	$21,583,038.35	$18,009,040.70
Penn-Ohio Edison Co	47,301,400.22	107,341,619.23	60,040,219.01
Commonwealth Power Corporation	89,742,899.05	372,234,258.32	282,491,359.27
Southeastern Power & Light Co	200,277,963.35	370,942,916.29	170,664,952.94
Total	340,896,260.27	872,101,832.19	531,205,571.92

> The total difference shown in column 4 of the table, in the amount of $531,205,571.92, represents the appreciation in ledger values of the securities formerly owned by the four merged or consolidated companies as valued on the books of the Commonwealth & Southern Corporation immediately after the merger.

With one stroke of the pen they inflated those values $531,205,571.92, and then proceeded to sell securities against those inflated valuations. That is what they call thievery within the law.

While Mr. Willkie and his cohorts are clamoring for law enforcement, why not enforce the law against using the mails to defraud? Every time an official, an attorney, an agent, or a representative of the Commonwealth & Southern wrote a letter, a circular, or a postal card to induce people to buy stock in the Commonwealth & Southern, or to invest in its securities in any way, with this $531,000,000 of water in its capital structure, and sent it through the mail, they violated the laws against using the mails to defraud.

The Attorney General of the United States should investigate this proposition thoroughly, and enforce the law just as rigorously against these utility racketeers as he would enforce it against the misguided individual who uses the mails to swindle his neighbor out of a few dollars.

Shall we continue the prosecution of Hopson for using the mails to defraud in connection with the misconduct of the Associated Gas & Electric Co. and at the same time permit the ones who perpetrated this gigantic steal to escape?

Our Government is being destroyed from within by these vast monopolies that disregard human rights, disregard the laws of the land in the perpetration of such misconduct, as well as by their wholesale robbery of the unprotected public.

Now let us look back of this Commonwealth & Southern and see what we find. As I said, the formation of the Commonwealth & Southern resulted from the consolidation of the four holding companies listed in the Federal Trade Commission's report. The Penn-Ohio Edison was a holding company incorporated in 1923 under the laws of Delaware. This holding company owned all the common stock of six operating companies and 99 percent of the common stock of the Northern Ohio Power & Light Co.

These operating companies then supplied power to 800,000 people in northeastern Ohio and western Pennsylvania, and included service to such principal cities as Akron, Youngstown, Salem, Ohio, and Sharon in Pennsylvania. The operation of these companies was contracted and placed under the supervision of the Allied Power & Light Corporation.

The Commonwealth Power Co. was also a holding company incorporated under the Maine laws in 1922. Its operating subsidiaries then served 621 communities, with an estimated

population exceeding 2,360,000 located in Michigan, Illinois, Indiana, Ohio, Tennessee, and Georgia. The Michigan operations were conducted by two major operating companies, namely, the Consumers Power Co. and the Southern Michigan Light & Power, and covered about 345 cities and towns with a population exceeding 1,525,000.

The Illinois properties then consisted of three operating companies, namely, the Central Illinois Light, Illinois Power, and the Illinois Electric Power Co. The first two companies served 48 cities, with a population exceeding 250,000, and included such large cities as Peoria and Springfield. In Springfield, Mr. Willkie's company operates in competition with Springfield's municipal plant and has had to meet the competition of the public-plant rates. The Illinois Electric Power Co. was a generating company wholesaling to the Illinois properties and to foreign private companies. The Indiana operations of the Commonwealth were carried on by the Southern Indiana Operating Co., centering around Evansville and reaching a territory with population in excess of 125,000.

The Ohio operations of the Commonwealth Co. were conducted by the Ohio Edison Co., which served 45 communities with population exceeding 105,000, in and around Springfield.

The Commonwealth Power Co. in 1925 acquired the Tennessee Electric Power Co. Tennessee Electric Power Co. then served 139 communities in Tennessee and 5 in northern Georgia and wholesaled to other private companies servicing over 100 communities in eastern Tennessee. The population of the communities directly served by Tennessee Electric Power Co. exceeded 375,000. This original Commonwealth Co. formed the backbone of the property later sold to the T. V. A. In addition to these holding and operating companies, Commonwealth operated through the Utilities Coal Corporation coal mines in Illinois and Kentucky.

The Southeastern Power & Light was also a holding company formed in 1924 to acquire the Alabama Power Co., Southeastern Fuel Co., Georgia Power Co., South Carolina Power Co., Mississippi Power Co., the Gulf Power Co., and the Gulf Electric Co. These subsidiaries at the time of the merger served 868 communities and a population of approximately 5,000,000. The object of this organization was to get control of the power to be generated at Muscle Shoals.

The Allied Power & Light was a combined holding, engineering, construction, and supervising company. It was formed in 1928 by acquiring the business and contracts of Hodenpyl, Hardy & Co., and Stevens & Wood, and handled all the engineering, construction, and supervision for all the original Commonwealth properties and the Penn-Ohio Edison.

WILLKIE'S BACKGROUND

I trust that you have followed closely the dates of the above mergers so that we can compare Mr. Willkie's own statement of experience, as given in Who's Who. After a short tenure with the Firestone Rubber Co., in a subordinate legal position in 1919, Mr. Willkie joined the Akron law firm of Mather & Nesbit in 1919, which connection he continued until 1929. This firm were the attorneys for the Ohio Edison. In those early holding-company days, the principal work of the local attorneys was lobbying before legislatures and regulatory bodies, franchise renewals, and rate fixing.

In 1927 and 1928 Mr. Willkie was lobbying at the National Capital against the Walsh investigation resolution, and assisting Weadock, who represented the National Electric Light Association in opposing that resolution. One of the briefs filed before the Senate committee in opposition to the Walsh resolution was prepared by Mather, Nesbit & Willkie, attorneys for the Ohio utility. Remember this was the resolution under which the Federal Trade Commission was operating when it uncovered the rascality perpetrated in the organization of the Commonwealth & Southern in which more than $531,000,000 of water was poured into the capital structure.

In 1929 Mr. Willkie moved to New York to become associated with his old N. E. L. A. associate, Mr. Weadock, in the firm of Weadock and Willkie, general counsel of the Commonwealth & Southern. The records indicate that this firm's only client was Commonwealth & Southern. Mr. Willkie's New York firm continued in this capacity until Mr. Willkie was elected president of the Commonwealth & Southern in 1933.

The Commonwealth & Southern was a Morgan-Bonbright creation. The New York Times of May 24, 1933, shows that George H. Howard, one of the Commonwealth & Southern directors was a ground-floor participant in the stock-market cuts of J. P. Morgan & Co. It will be remembered that friends of J. P. Morgan were given blocks of stock below the market price. Anyone interested in this phase of manipulation can brush up by reading the long record of the 1933 Senate banking investigation.

Anyone with realistic information on corporate practice knows that all political, public policy, financial, and franchise matters are handled by a corporation's legal counsel. The corporation counsel in one of these useless holding companies is the assistant chief of staff, who is supposed to guide the financial big shots so that thievery within the law can be accomplished without interference.

From 1919 up to the Republican convention of 1940, Mr. Willkie's entire experience (except a short initial interval with Firestone) was with the legal staff of Commonwealth & Southern and predecessor companies. He was a part of this legal staff when all these mergers and manipulations took place. At no time was he connected directly with the actual operations, or the task of making the wheels go around. The actual operation of the properties with which Mr. Willkie was associated, were handled by Hodenpyl & Hardy, Stevens and Wood, and the Allied Power, and since the dissolution of the engineering adjuncts, this phase of Commonwealth & Southern business has been handled by the operating men in these two organizations and those who came over with the Commonwealth merger.

Mr. Willkie's entire utility background—and that is the sum total of his business experience—has been in the field of legal legerdemain. He was in the set-up as an assistant chief of staff and chief of staff, during all the manipulations of the Commonwealth & Southern and its predecessors for the last 20 years. In spite of General Johnson's assertion, Mr. Willkie was in the picture when Penn-Ohio Edison was formed in 1923, and when Penn-Ohio Edison was a component in the assembly of the Commonwealth & Southern in 1929.

WATERED SECURITIES

As I have pointed out, at the time the Commonwealth & Southern was formed, the ledger value—book property account—of the companies forming the combine was $340,896,260.19. This value, according to the Federal Trade Commission, had been previously written up in the 1922–23 and succeeding combinations. Prior write ups were found by the Federal Trade Commission, but the total prior write ups can only be reached by estimate. The "per customer ledger value" of the four holding companies going in the Commonwealth & Southern combination indicates a write up of around $38 per customer. The first full year's report of the Commonwealth & Southern shows 1,053,759 electric consumers. Therefore, by such an estimate the prior write up was at least $40,000,000. This is a conservative estimate as it neglects the gas, ice, transportation, and water properties.

In addition to these prior write ups an actual audit of the books of the Commonwealth & Southern by the Federal Trade Commission discloses another write up, as I said, of $531,205,572 in the formation of the giant holding company known as the Commonwealth & Southern, which serves, or is served by, a population of nearly 10,000,000. Against these write ups new securities were issued and sold. The 1930 report of the Commonwealth & Southern sets out the plant account as $1,032,252,068, and securities outstanding, plus current debt, as $1.005 per $1 of ledger value—the ledger securities outstanding and the plant value for balance-sheet purposes were practically the same.

Exclusive of the funded and current debt and preferred stock of the subsidiaries, the balance sheet shows the holding company issuing and selling $150,000,000 of $6 no par

preferred stock, $51,900,000 of Commonwealth & Southern debt obligations, 33,673,328 shares of common stock and 17,588,956 common-stock option warrants.

As is known by those familiar with holding-company manipulations, the control of the common stock of the subsidiaries is the key step in the formation of a superholding company. Accordingly in the first half of 1929, with the panic in sight, the insiders of Morgan & Co. and Bonbright started the Commonwealth & Southern vehicle upon which the public was to take an inglorious ride. The gas which started this vehicle was $15,000,000 of Bonbright cash and $13,000,000 of Morgan cash, borrowed from two Morgan utilities. This and something like $15,000,000 other cash was used to buy up substantial amounts of the common stock of the three major underlying holding companies. This initial control stock was purchased by the insiders at $19 per share.

With the common stocks in their possession, the inside manipulators then commenced negotiations to trade the remaining common shares of the underlying holding companies for Commonwealth & Southern shares at a price which ranged from $24 to $24.40 per share. The next month Commonwealth & Southern shares were placed on the New York curb market and daily transactions ran into hundreds of thousands. Nine days after listing, trading in Commonwealth & Southern shares exceeded the million mark. The ride was on and the reluctant share owners of the subsidiaries rushed in to trade the remaining subsidiary shares for proposed Commonwealth & Southern common. This is how Commonwealth & Southern was formed and the public was coaxed for a ride. In 22 days the vehicle had been created, the insiders had a $15,000,000 profit on the original shares and the investing public had climbed aboard. By October 1929, Commonwealth & Southern common reached nearly $25 per share.

As bait, over 17,000,000 shares of option shares were issued at $30 per share. The traders advised that the shares would reach $50 by the end of the year. The shameful fraud of this stock-jobbing manipulation can be shown by a few simple figures.

The 33,673,328 common shares at, say, $25 a share represent $840,000,000. At $50 a share, anticipated, this common would represent $1,680,000,000. The 17,588,956 options at the issuing price represent $527,000,000. On top of these huge amounts were $916,000,000 of Commonwealth & Southern and subsidiary bonds, preferred stocks, and other obligations, such as customers' deposits, and so forth. Think of the fantasy of a paper value of $2,283,000,000 to $3,123,000,000 for a legitimate ledger value of only about $301,000,000—actual ledger value—of subsidiaries of the Commonwealth & Southern, less prior write ups, or $340,896,260.27 at the time the company was formed. I would like to ask Mr. Willkie what the rates would have to be to support such a capital structure which his inside friends and employers erected in 1929.

Did they use the mails to defraud in selling their watered stocks against these inflated values?

Today the options are worthless.

Mr. Willkie in his last balance sheet placed the common at $168,366,640, or $5 per share. The market value of the common share is now around $1.25, or $42,000,000. The paper stock and option write down amounted to one and three tenths billion dollars. The investors became victims. Weadock and Willkie were assistant chiefs of staff during the time of the transactions.

Even with the write down on 33,000,000 shares of common to $5, the electric book value per customer of the Commonwealth & Southern is $672 per customer. When Mr. Willkie took over the presidency of Commonwealth & Southern, the company had the second highest per-customer valuation in the country. The per-customer reduction from $833 in 1930 to $672 in 1938 arose not from any substantial lowering of capitalization but from taking on more customers.

Compare these figures with $303 for Insull's Commonwealth Edison, and $264 for all the public municipal plants in America. If Mr. Willkie's company had been efficiently operated financially, as the average public plant in America, it would have $550,000,000 less securities outstanding. Tacoma, Washington, has an outstanding debt of $123.50 per customer. The average American municipal plant has, through amortization, an outstanding debt of only $94 per customer. Mr. Willkie's company in spite of stock write downs, still has securities outstanding in excess of $670 per customer.

All the magazine talk of Mr. Willkie's rate-reducing policies is pure "hokum." The only way that he can reduce his company's rates to the T. V. A. yardstick level is by putting the Commonwealth & Southern through the wringer and squeezing the water out of its capital structure. Any intelligent person knows that it is impossible for Mr. Willkie's company to reach Tacoma rate levels with $670 per customer of securities outstanding, compared with $123.50 for Tacoma. To argue otherwise is willful deceit. But it can be done by squeezing the water out of the capital structure and eliminating the waste, graft, and extravagance.

WILLKIE'S OVERCHARGE

In the year 1938, before the T. V. A. sale, Willkie's companies overcharged their electric consumers $60,510,000 per year based on Tacoma rates. The details of these overcharges are given in the following table:

Overcharges of subsidiaries of Commonwealth & Southern for different classes of service, calendar year 1938, based on Tacoma's filed tariffs

Operating company	State	Residential overcharges	Commercial and industrial overcharges	Highway and street lights, etc.	Other utilities and railroads	Total
Alabama Power Co	Alabama	$2,190,000	$4,865,000	$218,000	[1] $243,000	$7,030,000
Georgia Power Co	Georgia	3,310,000	7,231,200	455,000	[1] 706,000	10,290,200
Tennessee Electric Power Co	Tennessee	2,325,000	3,810,100	159,000	368,000	6,662,100
Consumers Power Co	Michigan	5,635,000	8,763,500	561,000	220,100	15,179,600
Ohio Edison Co	Ohio	3,312,000	4,515,600	356,000	754,000	8,937,600
South Carolina Power Co	South Carolina	578,000	987,300	70,900	[1] 34,900	1,601,300
Central Illinois Light Co	Illinois	1,044,000	1,812,100	293,500	168,000	3,317,600
Gulf Power Co	Florida	379,000	498,200	35,050		912,250
Pennsylvania Power Co	Pennsylvania	854,000	1,171,800	120,800	74,200	2,220,800
Mississippi Power Co	Mississippi	650,000	1,900,000	316,500	91,400	2,957,900
Southern Indiana Gas & Electric	Indiana	589,000	768,000	69,800	[1] 26,150	1,400,650
Total		20,866,000	36,322,800	2,655,550	665,650	60,510,000

[1] Below Tacoma average rate +.

In spite of these rate overcharges, Mr. Willkie operated his companies from 1933 to date by reducing guaranteed dividends on preferred stocks. Up to the date of the Republican convention, Mr. Willkie's company was in arrears to his Commonwealth & Southern preferred stockholders $16.50 per share, or $24,800,000 on 1,500,000 shares. He was only able to keep his head above water by taking $24,800,000 from his preferred stockholders and writing down the common stock from the original sale price of $24 a share to less than $5 a share, or $19 a share on 33,673,328 shares, which represents a loss to them of $640,000, and it has now dropped to $1.25 a share, as the daily market reports show.

With this record of Mr. Willkie's, and the record of the forces with which he trains before us, I find it impossible to follow the optimistic gentleman from Pennsylvania [Mr. RICH] when he tells us that Mr. Willkie is the man to elect

President of the United States if we want to inspire confidence, spread prosperity, and restore the peace and happiness of mankind. [Applause.]

TRANSFERRING OF JURISDICTION OF ARLINGTON FARM TO WAR DEPARTMENT AND DEPARTMENT OF THE INTERIOR

Mr. JONES of Texas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill S. 4107, to transfer the jurisdiction of the Arlington Farm, Virginia, to the jurisdiction of the War Department and the Department of the Interior, and for other purposes, with House amendments, insist on the House amendments and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. JONES]?

Mr. RICH. Mr. Speaker, reserving the right to object, what property does this bill transfer?

Mr. JONES of Texas. This involves the Arlington Farm over across the river.

Mr. RICH. You are transferring it where?

Mr. JONES of Texas. To the War Department.

Mr. RICH. Is that for the duration of the war?

Mr. JONES of Texas. No. They are using part of it now.

Mr. RICH. Is that where they are building the camp on this side of Arlington Cemetery?

Mr. JONES of Texas. I understand they have stationed some soldiers there.

Mr. RICH. We are taking that land which was formerly a farm experimental station and now building an Army camp on it?

Mr. JONES of Texas. They are going to use it for that purpose and for protection purposes for the bridge and for the city.

Mr. RICH. Is it going to cost the Federal Government anything to make that transfer?

Mr. JONES of Texas. It is going to cost the Federal Government nothing to make the transfer. There will be a provision and has been provision in a bill for the purchase of other areas for the work of the farm that is now being done there and for some adjacent land that will be purchased.

Mr. RICH. I understand we have between here and Baltimore great areas of land which are now used by these experimental stations. Why is it necessary to have additional land for that purpose? Especially near the District of Columbia line, where land is so expensive.

Mr. JONES of Texas. This particular organization tests the new plants and seeds that have been brought in here to see that no pests and no diseases are transmitted to various parts of the country. They do a very fine work in protecting the country against the importation of diseases that might affect plants. They have done a great deal of exceptionally good work. There is some work that has been done in various sections of the country that I might question the benefit of, but not the work of this organization.

Mr. RICH. I think the particular thing they are trying to do is fine, but I question very much, with the acreage that the Agriculture Department has in close proximity to Washington, whether we ought to go out now and buy additional land.

Mr. JONES of Texas. They claim they have no available land nearby, and this must be nearby for the particular purpose they use it. As a matter of fact, may I say to the gentleman, that the Department of Agriculture is not anxious to have this done. They prefer to keep it, but the Army thinks this is a desirable place to have men stationed for the protection of the bridge and for the protection of the city.

Mr. RICH. I am not interested in embarrassing the Army or the Department of Agriculture, but I think the Federal Government is going out and buying entirely too much land. It owns too much ground now. It is getting into business of all kinds. After a while there will not be an opportunity for the individuals of this country. We are just socializing the country, making it a communistic nation.

Mr. JONES of Texas. The greater part of this is not for the buying of the land, but for the moving of the equipment and the establishment of the necessary buildings and stations to do the work.

Mr. ENGEL. Mr. Speaker, will the gentleman yield?

Mr. JONES of Texas. I yield to the gentleman from Michigan.

Mr. ENGEL. Are they using this land to test the seed that is sent here by different States?

Mr. JONES of Texas. Plants and seeds brought in from different countries. Occasionally we must bring in seeds and plants from other countries, and they are brought in under the right to bring them in. They require them to be sent here and be tested so that diseases of plants will not scatter throughout the country. They also make tests to determine the suitability of plants for different sections of the country.

Mr. ENGEL. How many acres of land are they buying for this testing purpose?

Mr. JONES of Texas. I do not know.

Mr. ENGEL. How much an acre are they paying?

Mr. JONES of Texas. I do not believe they have actually located the land yet. This is just to make the fund available to duplicate their work and activities. I assume they will buy just such amount as will be necessary. I understand they have options on some land between Washington and Baltimore.

Mr. ENGEL. I imagine this land across the river here is worth $1,000 an acre.

Mr. JONES of Texas. Yes. They will not pay anything like the price that land would bring for the new land, so they assure me.

Mr. ENGEL. Why should they not go out a distance where they could get land more reasonably?

Mr. JONES of Texas. They are going to be some distance farther away, but it is necessary to have it near the city as a matter of saving expense of operation.

Mr. ENGEL. Could the gentleman obtain the information for the RECORD as to the number of acres and how much they are paying per acre for this land they expect to buy?

Mr. JONES of Texas. I understand they have an option on a 700-acre tract a few miles out of Washington—about 700 acres—at an average price of approximately $300 per acre. That is the substance of the information that I have been furnished. That is the land that will probably be procured.

Mr. ENGEL. How many acres did they say they wanted to buy?

Mr. JONES of Texas. I do not know that they have actually determined that. I believe they said they needed between 400 and 700 acres of land. Perhaps it would be necessary to purchase a small amount more in order to secure the proper type.

Mr. ENGEL. How much of an appropriation are they authorized to have for this purpose?

Mr. JONES of Texas. The total appropriation for the moving, the construction of the buildings, the purchase of the land, and the furnishing of the essential equipment is $3,000,000.

Mr. ENGEL. How much of that did they say in the hearings—there were hearings, I assume—was for the purchase of this 600 acres of land?

Mr. JONES of Texas. They did not give the exact figures, although it is my understanding that much less than a third of it will be used for the purchase of land. I am not qualified to give the gentleman any specific assurance on it except that they said the land was not by any means the chief element of cost.

Mr. ENGEL. Does the gentleman mean to say that a third of $3,000,000 is going to be used to buy 600 acres?

Mr. JONES of Texas. No. I do not have the information and I do not believe they have, because they do not know just what land they will ultimately secure. However, I think they will probably obtain the land on which they now have an option.

Mr. ENGEL. The reason I am asking is that one of the departments came before our committee with a proposal to spend $1,200 an acre for cemetery land. We turned it down, and they paid $800 an acre for it. I am afraid we are having the same proposition here.

Mr. JONES of Texas. That particular thing is not going to be done by this organization.

Mr. ENGEL. It will have to come before the Appropriations Committee for the money, and justify the appropriation?

Mr. JONES of Texas. Certainly, they will have to get the appropriation.

Mr. KEAN. Mr. Speaker, will the gentleman yield?

Mr. JONES of Texas. I yield to the gentleman from New Jersey.

Mr. KEAN. This is a bill that was on the Consent Calendar last week?

Mr. JONES of Texas. Yes; it was passed last week.

Mr. KEAN. Was there not a larger authorization than $3,000,000? It seems to me there were two authorizations, for $8,000,000, I believe.

Mr. JONES of Texas. The gentleman was asking only about the appropriation for the purchases of new properties and equipment, the new properties for the experiment farm and station. There is an additional authorization for the purchase of the adjacent properties over there which the War Department will need, including the old Washington-Hoover Airport, and which are also needed to prevent the erection of buildings which would interfere with the landing field at the new airport.

Mr. KEAN. So the total authorizations are about $8,000,000?

Mr. JONES of Texas. The total authorization for the purchase of land is $5,000,000 for the War Department.

Mr. KEAN. Can the gentleman tell me whether the Senate changed these figures?

Mr. JONES of Texas. No; the Senate left the figures as they are. They simply disagreed to the House amendments. The gentleman recalls that we took out the provision for the National Parks Service and put in the bill a provision that if enough of the land was not needed to enable the Department of Agriculture to continue there they should continue without purchasing the new land. It does not direct the purchase of the new land, but conditions it upon the need of the War Department for the present site. In other words, the House safeguarded the provision of the authorization by providing that they should use it only in the event the Army found it necessary to use so much of the land that it could not be continued for experimental purposes.

Mr. ENGEL. Mr. Speaker, will the gentleman yield further?

Mr. JONES of Texas. I yield to the gentleman from Michigan.

Mr. ENGEL. Does the Department have authority either in this bill or in general law to take land through condemnation proceedings in case the owners ask more for the land than the land is worth?

Mr. JONES of Texas. I understand they can do that for any public purpose. They have general authority on that.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. JONES of Texas. I yield to the gentleman from Pennsylvania.

Mr. RICH. I wish to say here that there is no one in the House of whom I think more of than the gentleman from Texas, who has charge of agricultural legislation, but I want to ask the gentleman this question. If we are going to do this experimental work, why do we have to have a farm so close to the District of Columbia? Just 10 to 15 miles from here the Department of Agriculture has thousands of acres of land. Why could not that land be used?

Mr. JONES of Texas. Where do they have those thousands of acres near here?

Mr. RICH. Between here and Baltimore, about 10 or 15 miles out on the road to Baltimore.

Mr. JONES of Texas. I understand that the land they own anywhere near Washington is already being used. As I stated to the gentleman, I do not undertake to defend every particular type of experimentation that may be carried on throughout the country, but this particular work is national work and it is for the protection of the entire Nation.

Mr. RICH. We want the work to go on, but I say this now, let us get down to brass tacks. If the gentleman will use his influence to get the Department of Agriculture to put this experimental station on this land within 10 miles of the District line, we can save spending $2,500 an acre for ground over here that they may buy, and perhaps it will cost $5,000 an acre. This country cannot afford to buy land at that price as a farm and nobody knows it better than the gentleman from Texas.

[Here the gavel fell.]

Mr. JONES of Texas. I will state to the gentleman that we went over this very thoroughly and questioned them very closely about the necessity of acquiring the land and also urged upon them the necessity of going a little farther out and buying land on a much cheaper basis, and I want to assure the gentleman that I am in thorough accord with that sentiment. I do not want them to pay $1 more than is essential, but I do want this particular work, which protects the entire country, to be continued.

Mr. RICH. If the gentleman will try his best with the Department of Agriculture I am sure he will see that within a year they will be using its experimental station on the Baltimore Pike, within 10 to 15 miles of the District, for this particular purpose, and we will not buy this ground at $2,500 an acre.

Mr. JONES of Texas. If they can use that land or a part of it I shall certainly be anxious for them to do it and I shall urge them to do it.

Mr. STEFAN. Mr. Speaker, will the gentleman yield?

Mr. JONES of Texas. I yield.

Mr. STEFAN. Has the gentleman fully determined that this land is going to cost $2,500 an acre?

Mr. JONES of Texas. Oh, no; I do not believe the land they will purchase will cost anything like that amount. It is the extra land over here that the War Department wants that may cost a considerable sum, but that is for military purposes and for protection of the city of Washington and, certainly, in the light of modern warfare we do need some protection here.

The SPEAKER. Is there objection to the request of the gentleman from Texas? [After a pause.] The Chair hears none and appoints the following conferees: Mr. JONES of Texas, Mr. FULMER, and Mr. HOPE.

TWO HUNDREDTH ANNIVERSARY OF THE BIRTH OF THOMAS JEFFERSON

The SPEAKER. Pursuant to the provisions of Public Resolution 100, Seventy-sixth Congress, the Chair appoints as members of the United States Commission for the Celebration of the Two Hundredth Anniversary of the Birth of Thomas Jefferson the following Members of the House: Mr. SMITH of Virginia, Mr. BLOOM of New York, Mr. COX of Georgia, and Mr. CULKIN of New York.

EXTENSION OF REMARKS

Mr. COOPER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a brief article from the Commercial Appeal, of Memphis, Tenn., which gives a very clear and concise statement with respect to the excess-profits-tax bill recently passed; and allow me to suggest that Members desiring a clear, concise, and brief statement on that measure will be interested in reading this article.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

THE UNITED STATES AND THE EUROPEAN WAR

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to proceed for 3 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KNUTSON. Mr. Speaker, a remarkable interview with the new Japanese foreign minister, obtained by Larry Smith, International News Service correspondent, is carried in the Washington Times-Herald and other newspapers today.

In this interview the foreign minister, Matsuoka, asserts that Japan is ready to fight if the United States insists on

the status quo in Asia, or if the United States enters the European war.

Many of us in this House have repeatedly warned that the "meddling" policies of President Roosevelt and Secretary of State Hull gravely endanger the peace of this Nation. The statements of the Japanese foreign minister are simply added evidence of the possible disastrous consequences of the war policy of the Roosevelt administration—a policy which has been marked by undiplomatic utterances, denunciation of powers with whom we are at peace, inviting war while we are totally unprepared.

I do not know that there is anything Congress can do about this unfortunate situation. Certainly in its present frame of mind it will never vote for a declaration of war; but, in common with many of my colleagues on both sides of the aisle, I am apprehensive that the President and his Secretary of State will, by hook or crook, bring about an incident that will make America's entrance into the war inevitable.

I am as firmly convinced as I can possibly be of anything that if Mr. Roosevelt is reelected President of the United States we will assuredly go into this war as we went into the first World War following the election of Woodrow Wilson. Indeed, I am not so sure that this administration is not prepared to plunge the country into war before election if that becomes necessary for the success of the third term.

Politicians may prate about being opposed to war, but what credence can we place in any such pledges when they emanate from individuals who have repeatedly broken their solemn pledges? It is most disagreeable to have to make a statement like this concerning the Chief Executive of our country, but I am afraid that we are going to war, maybe before election. I am satisfied that we are going to get into it immediately following the election.

[Here the gavel fell.]

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to proceed for 1 additional minute.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. JENKINS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. KNUTSON. I yield to the gentleman from Ohio.

Mr. JENKINS of Ohio. Does not the gentleman think by reason of his long experience here in Congress, and the gentleman has served here as long and as honorably as any Member of Congress, that the sentiment in the country is overwhelmingly in favor of Congress remaining close to the Capitol?

Mr. KNUTSON. Oh, absolutely.

Mr. JENKINS of Ohio. Does not the gentleman believe that the reason for that is that the people believe what the gentleman has said, that the President is certainly determined to carry the country into war?

Mr. KNUTSON. I think that sentiment is entertained by Democrats as well as by Republicans. Certainly, with the overwhelming Democratic majority in Congress, they could vote an adjournment any day they wanted to, but they do not want to do so, because they do not want to see the situation get out of hand.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent to address the House for 3 minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. McCORMACK. Mr. Speaker, when a Member of Congress—and I respect the gentleman profoundly—makes a serious charge that has just been made by the gentleman from Minnesota [Mr. KNUTSON], that charge cannot go by unchallenged and unanswered. The gentleman has a right to his own opinion but when he makes the charge that any President, no matter who that President may be, and in the present case President Roosevelt, "would plunge the United States into war for the purpose of reelection," I label that as a statement which is unworthy of anyone who is possessed of a mind which entertains respect for any man who is President of the United States. [Applause.]

I am not going to characterize the statements made by my friend, because I do not want to enter into intolerant debate. These are serious days. These times are too serious for men who are Americans, whether they be Republicans or Democrats, as far as party politics are concerned, to make statements that will tend to unnecessarily and incorrectly alarm the American people.

The gentleman from Minnesota [Mr. KNUTSON] has made a speech, and in that speech he has made statements which have as their objective or as their result the unnecessary alarming of the American people. What are we going to do in America? Are we going to sit idly by and permit the dictator nations of the world to gang up on us? Are we going to run away, from fear, as other nations did, as the leaders of other democracies in the world did, until they could not run any farther, or are we going to look at it from a realistic angle and make those preparations which in our own hearts and in our own minds we know are necessary, not only for defense but for peace?

In these trying days, I submit, we are not confronted with normal considerations. We cannot think in normal terms. We must think in terms of reaction—what other nations intend to do, and we must act in terms of reaction. With the knowledge we have that decency among nations and justice among nations is ignored by powerful nations, with the knowledge of other independent people unprepared being destroyed, with that knowledge, as the greatest democracy in the world, what is our duty? Is it our duty to run, from fear, or is it our duty to prepare a defense which will, of necessity, instill fear into the minds of the aggressor nations of the world?

I resent as vigorously as I can the charge made by any Member of this Congress, or any person, that any President of the United States would deliberately plunge this country into war for the purpose of reelection, and that statement of mine applies to a Republican President as well as to a Democratic President. [Applause.]

[Here the gavel fell.]

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate disagrees to the amendment of the House to the bill (S. 4270) entitled "An act to promote and strengthen the national defense by suspending enforcement of certain civil liabilities of certain persons serving in the Military and Naval Establishments, including the Coast Guard," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SHEPPARD, Mr. THOMAS of Utah, Mr. OVERTON, Mr. AUSTIN, and Mr. GURNEY to be the conferees on the part of the Senate.

PERMISSION TO ADDRESS THE HOUSE

Mr. VAN ZANDT. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes.

The SPEAKER. Is there objection?

There was no objection.

[Mr. VAN ZANDT addressed the House. His remarks appear in the Appendix of the RECORD.]

EXTENSION OF REMARKS

Mr. DONDERO. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Appendix of the RECORD and to include therein an editorial appearing in the Washington Star of last night by David Lawrence, having reference to a very unfortunate incident that occurred in my congressional district of Michigan this week.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. JOHNSON of Illinois. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and to include a brief newspaper article dated Cleveland, October 3, by Mr. John T. Flynn.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. MICHENER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein a short radio questionnaire broadcast this morning over a national hook-up, wherein Mr. Willkie states his position on war.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. MICHENER. Mr. Speaker, I also ask unanimous consent that I may have further time to extend the remarks I made on the conscription bill on September 4, the remarks to appear the same as if this extension had not been necessary.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. JENKINS of Ohio. Mr. Speaker, I ask unanimous consent to extend my own remarks by printing a short statement made by Bishop Leonard before the subcommittee of the Senate Judiciary Committee on Monday, September 30, 1940.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

NEW DEAL GOVERNMENT

Mr. JOHNS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, to revise and extend my remarks and to include therein a short letter from a constituent.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. JOHNS. Mr. Speaker, I am not going to take the time of the House to read this letter I have here through a newspaper in my district, but I call it to your attention, and I want both Democrats and Republicans to look into this and help me prepare an answer for this man who has been a Democrat all his life.

This letter directed to me is reported in the Kewaunee Enterprise, a Democratic paper of 65 years' standing. It was published on Friday, September 27, 1940. The reason it is so important is because practically everybody in the United States is asking similar questions to the one this Democrat is asking of a Republican to answer for him. I appeal to all Members of the House, Democrats and Republicans, to help me answer this question.

The article referred to follows:

JUST LOOKING AROUND

(By John Read Karel)

DEAR CONGRESSMAN: We don't like to bother you, because we know you are busy with the defense program, the National Budget, and other important matters, but we're in a quandary and you told us to write to you when we had a very special quandary we were in.

Some time ago we talked to Mr. Lendved, the manager of our local telephone exchange, about a new telephone number for our office. He said he thought it could be arranged, which it was, and he has informed us that the new number will be in the fall telephone directory out next Tuesday.

This all seems simple so far, your honor, but here is where the quandary we are in comes in. Dast we change our telephone number, just like that, or is there a law? We have been reading the war and football news so much lately that we haven't paid much attention to what the New Deal is doing, and we certainly don't want to run afoul of any changes in the Constitution or Bill of Rights pertaining to changing a phone number.

We wouldn't bother you, Congressman, at a crucial time like this, but you're a businessman, too, and you know how it is. We might go right ahead and change our phone number, like folks have done for years and years. Then some day, just when we are getting used to it, we'll get a letter from a third assistant to the second assistant secretary of the S. E. C. or the N. B. R. P., Bureau of Fisheries, asking by what authority did we change our phone number and did we file Form 3–A under section 84 of the Revised Statutes.

Of course, we can write back politely and tell him we didn't know a person had to file Form 3–A to change a phone number. That won't work, your honor, and pretty soon six young college graduates with spectacles and hook noses will be prowling through our income-tax statements and our coal bills, on the theory that anybody who will change a phone number without permission will betray his country and rob the Treasury. Then there will be a letter from Madam Perkins, a public hearing, a Supreme Court decision, and—well, you know how it is, and maybe we were foolish to change our phone number in the first place.

Being right there at Washington, you might think we have got ourselves into this quandary without cause. But we remember that Kenosa shoemaker who almost went to jail because he was insulted by a Government clerk, and once a West Kewaunee farmer had six investigators with brief cases on his premises because he moved two fence posts without permission on Form 6–B under the A. A. A. Soil Conservation Act.

So we wish you would look into this right away, Congressman, because we would like to have our new phone number next Tuesday if it can be done without violating any laws or disturbing the Government right at this time when it has so many other important things to worry about.

We have other things to worry about too, your honor, and we would sure like to get out of this quandary because, the way things are going, there will be other quandaries after election and we don't want to keep on wondering whether our phone number is legal.

Your constituent,

J. R. K.

SOLDIERS AND SAILORS CIVIL RIGHTS' BILL OF 1940

Mr. THOMASON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 4207) to protect and strengthen the national defense by suspending enforcement of certain civil liabilities of certain persons serving in the Military and Naval Establishments, including the Coast Guard, with Senate amendments, disagree to the Senate amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. THOMASON, COSTELLO, ARENDS, and HARNESS.

EXTENSION OF REMARKS

Mr. LEWIS of Colorado. Mr. Speaker, I ask unanimous consent to extend my own remarks in the Appendix of the RECORD and to include therein a plan submitted by me to the General Staff of the Army suggesting the establishment of a mountain military training center for the intensive training of a small highly specialized force of the United States Army in the technique of operations in high altitude or in heavy snow or in both. I think this extension will probably somewhat exceed the usual limit. I have not an exact estimate on the cost, but it will probably exceed somewhat the limit. I ask unanimous consent that notwithstanding this I may be permitted to insert it in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. HARTER of New York. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an editorial from the Buffalo Evening News.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

RECESS

The SPEAKER. Without objection, the House will stand in recess subject to the call of the Chair with the understanding that the bells will be rung 15 minutes previous to the reassembling of the House.

There was no objection.

Accordingly (at 1 o'clock and 27 minutes p. m.) the House stood in recess subject to the call of the Chair.

The recess having expired, the House was called to order by the Speaker at 2:12 o'clock.

VERDIE BARKER

Mr. KENNEDY of Maryland. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 5053) for the relief of Verdie Barker and Fred Walter, with Senate amendments thereto, and to concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out "$5,000" and insert "$2,000".
Page 1, line 8, strike out "$500" and insert "$200".

The SPEAKER. Is there objection to the request of the gentleman from Maryland [Mr. KENNEDY]?

Mr. MICHENER. Mr. Speaker, reserving the right to object, as I understand it, the Senate reduced the amount allowed by the House?

Mr. KENNEDY of Maryland. That is correct.

Mr. MICHENER. And is the reduction satisfactory to the Member who introduced the bill in the House?

Mr. KENNEDY of Maryland. It is. I am making this request at the suggestion of the gentleman from Ohio [Mr. LEWIS].

The SPEAKER. Is there objection to the request of the gentleman from Maryland [Mr. KENNEDY]?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

STILL FURTHER MESSAGE FROM THE SENATE

A still further message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9980) entitled "An act to revise and codify the nationality laws of the United States into a comprehensive nationality code."

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title: H. R. 9972, an act authorizing the improvement of certain rivers and harbors in the interest of the national defense, and for other purposes.

SUPPLEMENTAL APPROPRIATIONS FOR SUPPORT OF GOVERNMENT, 1941

Mr. WOODRUM of Virginia submitted the following conference report on the bill, H. R. 10539, making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 10539) "making supplemental appropriations for the support of the Government for the fiscal year ending June 30, 1941, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 13, 22, 33, 40, 44, 45, 46, and 49.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 5, 6, 7, 8, 10, 12, 14, 15, 16, 17, 19, 20, 21, 26, 27, 28, 29, 31, 32, 36, 38, 39, 42, 54, 55, 56, 58, 60, 61, 62, 64, 65, 66, 67, 68, 69, and 70; and agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"For an amount required to increase the compensation of the clerk of the Finance Committee of the Senate at the rate of $1,000 per annum so long as the position is held by the present incumbent, $750."

And the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$1,400"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In the first line of the matter inserted by said amendment strike out the following: "(a)"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$83,000"; and the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: ": *Provided further*, That nothing herein shall be construed to prohibit the National Labor Relations Board from obligating any part of such appropriation for carrying on any of the functions or duties specifically conferred upon it by the National Labor Relations Act or to repeal any provision of such Act."; and the Senate agree to the same.

Amendment numbered 35: That the House recede from its disagreement to the amendment of the Senate numbered 35, and agree to the same with an amendment, as follows: Restore the matter stricken out by said amendment to read as follows:

"Development of landing areas: For the construction, improvement, and repair of not to exceed two hundred and fifty public airports and other public landing areas in the United States and its territories and possessions, determined by the Administrator, with the approval of a Board composed of the Secretary of War, Secretary of the Navy and Secretary of Commerce, to be necessary for national defense, including areas essential for safe approaches and including the acquisition of land, $40,000,000, of which $2,000,000 shall be available for general administrative expenses, including the objects specified in section 204 of the Civil Aeronautics Act of 1938 and including engineering services and supervision of construction: *Provided*, That this appropriation shall not be construed as precluding the use of other appropriations available for any of the purposes for which this appropriation is made."

And the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"Construction and repair: For an additional amount for the construction, repair, or rehabilitation of school, agency, hospital, or other buildings and utilities, including the purchase of furniture, furnishings, and equipment as follows:"

And the Senate agree to the same.

Amendment numbered 47: That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows: Strike out line 1 of the matter inserted by said amendment and insert in lieu thereof the following: "Fish and Wildlife Service"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$225,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$2,250"; and the Senate agree to the same.

Amendment numbered 52: That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$22,500"; and the Senate agree to the same.

Amendment numbered 53: That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$197,000"; and the Senate agree to the same.

Amendment numbered 63: That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows: After the sum of "$412.50" in line 10 of the matter inserted by said amendment insert the following: ", together with such additional sum as may be necessary to pay costs and interest as specified in such judgment"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 11, 23, 24, 34, 37, 43, 48, and 59.

EDWARD T. TAYLOR,
C. A. WOODRUM,
CLARENCE CANNON,
LOUIS LUDLOW,
J. BUELL SNYDER,
EMMET O'NEAL,
GEO. W. JOHNSON,
JOHN TABER,
W. P. LAMBERTSON,
Managers on the part of the House.

ALVA B. ADAMS,
CARTER GLASS,
KENNETH MCKELLAR,
CARL HAYDEN,
JAMES F. BYRNES,
FREDERICK HALE,
JOHN G. TOWNSEND, Jr.,
Managers on the part of the Senate.

Mr. WOODRUM of Virginia. Mr. Speaker, under the unanimous-consent request granted yesterday, I call up the conference report and ask recognition.

The SPEAKER. The gentleman from Virginia [Mr. WOODRUM] is recognized for 1 hour.

Mr. WOODRUM of Virginia. Mr. Speaker, the conference report which comes up now under unanimous consent is the last deficiency bill. This bill as it left the House carried $207,475,727.02 in cash and carried contract authorizations of $60,258,001. As it comes to the House in this conference report it is $228,132,013.35 cash, an increase of approximately $21,000,000 of direct appropriations, and $10,258,001 in contract authorizations, a decrease of $50,000,000 in contract authorizations under the House amount.

The money increase in the bill as contained in the conference report is accounted for by the fact that between the time the bill passed the House and the time it was acted on in the Senate, additional Budget estimates were transmitted in connection with the defense program which were not

considered in the House, but which were considered by the Senate committee. The additional items are supported by the regular Budget estimate. Those estimates were in many instances curtailed by the Senate. The gross amount of the bill would be considerably more had there not been those curtailments and some eliminations.

Mr. Speaker, there are 70 Senate amendments to this bill, very few of them of any purport or of any particular interest. I might mention two or three of them perhaps that I believe the membership would be interested in; then I shall respond to questions if there are any.

There was an amendment respecting the National Labor Relations Board wherein the House sought to carry out the previous action of the House in directing discontinuance of the functions of one of the divisions of that Board. The House language in this bill was changed by the Senate amendment. It is understood by the conferees that the revised Senate language, as now contained in the conference report, will discontinue the personnel and the functions of that division with the exception of two or three people who are necessary to work on reports to be sent to the Congress. Have I stated that correctly?

Mr. TABER. I think the amount left for them to make that report is $3,200, as I remember it, or something like that.

Mr. WOODRUM of Virginia. It is the understanding that the functions of that division and its personnel are to be discontinued?

Mr. TABER. That is right.

Mr. WOODRUM of Virginia. It appears on page 19:

Provided, That not to exceed $3,200 may be expended in performing those functions necessary to keep records and to make a report to Congress and to the President thereon as required by section 3 (c) of the National Labor Relations Act.

There is also added to the Senate language the provision that the action taken by the House in this appropriation bill and in this conference report is not intended to repeal any of the provisions of the organic act.

Mr. CASE of South Dakota. Will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from South Dakota.

Mr. CASE of South Dakota. Was there any discussion with reference to the employment of Mr. Saposs?

Mr. WOODRUM of Virginia. There were no personalities involved in this, so far as the House was concerned. The history, as shown by the record, was that the subcommittee handling this original appropriation deducted a certain amount of money upon the theory that the functions of this particular division would be discontinued.

Mr. ENGEL. Will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Michigan.

Mr. ENGEL. For the information of the gentleman from South Dakota, may I say that Dr. Saposs' name was not mentioned in the subcommittee, according to my recollection, when it discussed this particular question.

Mr. WOODRUM of Virginia. It was not mentioned in the deficiency subcommittee, I may say to the gentleman.

Mr. CASE of South Dakota. It was during the action by the House though.

Mr. WOODRUM of Virginia. It may have been during the action by the House.

Another matter in which the House will be interested is the provision of $30,000,000 and $50,000,000 in contract authorizations for the civil airport program.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Oklahoma.

Mr. NICHOLS. That amount was taken out by the Senate and is not in the bill as it is now; is that right?

Mr. WOODRUM of Virginia. I was just going to explain that, I may say to the gentleman. The provision remains in the bill with this change. We struck out of the language the $50,000,000 for contract authorizations and increased the amount of cash to $40,000,000. This reduces the program from an $80,000,000 program to a $40,000,000 program. We provide a limitation of not to exceed 250 projects. This answers the question of embarking upon this program of some 4,000 projects that has been the subject of much discussion on the floor and in the press. We provide that the projects must be public airports or public landing fields. We provide that they must be passed upon by a board composed of the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce, who must certify that they are necessary for defense purposes.

Mr. LEWIS of Colorado. What page is that?

Mr. WOODRUM of Virginia. That is on page 24 of the bill, but the gentleman will not find the changes I am going over now because it was just an hour or two ago that we decided upon them.

Mr. PAGE. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Georgia.

Mr. PACE. Many of us will have to answer messages during the afternoon on this subject. Would the gentleman mind reading the exact language agreed on by the conferees so that we may have it in our minds as we go to our offices?

Mr. WOODRUM of Virginia. The exact language agreed upon by the conferees is this:

For the construction, improvement, and repair of not to exceed 250 public airports and other public landing areas in the United States and its Territories and possessions, determined by the Administrator with the approval of a board composed of the Secretary of War, Secretary of the Navy, and Secretary of Commerce to be necessary for national defense, including areas essential for safe approaches and including the acquisition of land, $40,000,000, of which $2,000,000 shall be available for general administrative expenses, including the objects specified in section 204 of the Civil Aeronautics Act of 1938, and including engineering services and supervision of construction: *Provided*, That this appropriation shall not be construed as precluding the use of other appropriations available for any of the purposes for which this appropriation is made.

This last provision is made necessary by the fact that under the W. P. A. program W. P. A. funds may be used for airport improvement. Without such a provision in the bill there might have been discontinued such airport development and improvement as is being carried on with W. P. A. funds.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield further?

Mr. WOODRUM of Virginia. I yield to the gentleman from Oklahoma.

Mr. NICHOLS. Is it contemplated by the Appropriations Committees of the two Houses that this is only the beginning of this thing, and that probably the program in order to be fully developed will require further study and there will probably be subsequent appropriations to carry out the airport program?

Mr. WOODRUM of Virginia. I would not be able to say to the gentleman that the Appropriations Committees had any idea that there would be a further program. However, I think that matter would have to stand on its merits. I believe this speaks for itself. If the facts demonstrate that in connection with the airplane program and the defense program an enlargement or an expansion of this is necessary, the way would be wide open to consider it.

Mr. NICHOLS. A recent survey showed that throughout the country there is an inadequate supply of airports for the number of airplanes we are talking about, and airports are a very vital part of the program.

Mr. WOODRUM of Virginia. I quite agree with the gentleman. It was the unanimous opinion of the conferees that such a program would be sufficient to embark upon for the present. Let the future take care of itself.

Mr. ENGEL. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Michigan.

Mr. ENGEL. In the list of airports which would be eligible for participation in this program, filed with the committee, there were 3,981 airports, I believe. They were classified as defense projects and nondefense projects, to show those necessary for national defense. Did I correctly understand the gentleman to say that only those airports which had the

approval of the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce as being necessary for national defense could participate in this program?

Mr. WOODRUM of Virginia. That is correct. They have to have the O. K. of that board.

Mr. ENGEL. They must be necessary for defense?

Mr. WOODRUM of Virginia. That is correct.

Mr. HINSHAW. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from California.

Mr. HINSHAW. I could not quite understand the language the gentleman read, but do I correctly understand that this $40,000,000 is to be spent by contracting with contracting firms to build these airports, or is it to be used for the W. P. A.?

Mr. WOODRUM of Virginia. It is not to be used for the W. P. A. However, there would be no objection to the use of W. P. A. labor on these projects. W. P. A. labor might be used, but there is nothing to require it.

Mr. HINSHAW. Is it the idea that this $40,000,000 is to be used through contracts negotiated with contractors to build or improve these airports?

Mr. WOODRUM of Virginia. That is mainly correct.

Mr. HINSHAW. I thank the gentleman very much.

Mr. HAWKS. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Wisconsin.

Mr. HAWKS. What is the gentleman's understanding of the term "public airport"?

Mr. WOODRUM of Virginia. Just what the term implies; that it is operated by some public agency such as the Federal Government, a State, city, or some political subdivision or agency thereof.

Mr. HAWKS. That would mean county airports and city airports?

Mr. WOODRUM of Virginia. Yes.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield further?

Mr. WOODRUM of Virginia. I yield to the gentleman from Oklahoma.

Mr. NICHOLS. I presume this program is broad enough that it contemplates the construction of airports to be used, for instance, for C. A. A. student training and airports to be used for the program of Army training of civilian student pilots?

Mr. WOODRUM of Virginia. That portion of it was stricken out.

Mr. NICHOLS. This, then, is strictly military, and this appropriation will be used only for the Army and the Navy?

Mr. WOODRUM of Virginia. I would not say they could not be used by other people. These funds could not be used to improve them, but I think the airport might be used; for instance, you might have a publicly operated airport in a community that the Army wished to develop as an emergency landing field for Army planes. If this board certified that that was necessary for national-defense purposes, funds could be used to develop that and it would not in any way interfere with whatever civil functions were being carried on there in the way of a training program, but they could not improve the field for the primary purpose of carrying on a training program.

Mr. NICHOLS. Neither for C. A. A. nor the Army?

Mr. WOODRUM of Virginia. Certainly not for the C. A. A.

Mr. CHURCH. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Illinois.

Mr. CHURCH. As I understand it, before the House Appropriation Subcommittee is this list of the Civil Aeronautics Authority of something like 4,000 locations for projects for airport improvements, and so forth, and under the justification heading there is found in many cases the letter "N," which means national defense as distinguished from air-school training and such.

Mr. WOODRUM of Virginia. That is right.

Mr. CHURCH. That complete list amounts to something like $700,000,000. However, the designations "N" for national defense, of course, are much less in number. Now, the gentleman says that in the conference report there is authorized not to exceed 250 projects. Would the gentleman say that he is able to point to that list before his committee where the projects are labeled "N," meaning national defense under the heading "Justification," and that these 250 projects are taken from that list or would the gentleman say that those projects labeled "For National Defense," and maybe other locations as well, will still have to be submitted to this Board, consisting of the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce for its approval?

Mr. WOODRUM of Virginia. I would not say either one.

Mr. CHURCH. In other words, where do you find any one of those projects that make up a list not to exceed 250?

Mr. WOODRUM of Virginia. If I may have the attention of the gentleman from New York [Mr. TABER], I would like to see whether the gentleman concurs in the construction I am going to give the gentleman from Illinois of this list that has been filed.

Mr. CHURCH. Where do we go to find the location of any of these 250 projects?

Mr. WOODRUM of Virginia. So far as I know, I could not name a single airport that would be in the so-called 250 category. Here is the way it was arrived at. In the first place, the list filed with the Appropriations Committee was a survey made by the Civil Aeronautics Authority, a prospective list, just looking over the country as a whole to see what might be done if, when, and as Congress wished to embark upon such a program. Now, so far as this bill is concerned, that list is laid aside. We had a letter before the conferees from Mr. Jesse Jones, the Secretary of Commerce, urging the appropriation of these funds for airport development, and he said that in his opinion, with this $80,000,000 program, 200 to 300 needed projects could be carried on. He did not say what projects, and there was no list of locations. So the conferees, in order to get away from the idea that this was embarking upon a 4,000-airport project, adopted the suggestion of the Secretary of Commerce, that a limited number of airports would be considered for development or improvement when they had the sanction and the recommendation of this Board that is set up in the bill, but not over 250.

Mr. CHURCH. So it would be a fair statement to say that under the terms of the conference report projects not to exceed 250 would be selected by the Board, the Board to stay within the $40,000,000 appropriation, and also that this Board, composed of the Secretary of War, Secretary of the Navy, and Secretary of Commerce, can even ignore the 4,000-project list that is before your committee, which totals around $700,000,000.

Mr. WOODRUM of Virginia. There may be none of the 250 in that list or there may be one or many. It was my understanding that each one would stand on its own merits and each one would have to have the sanction of this Board.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Oklahoma.

Mr. NICHOLS. Do I understand that the selections are made by the Administrator or the C. A. A.?

Mr. WOODRUM of Virginia. By the Administrator, with the approval of this Board, composed of the Secretary of Commerce, the Secretary of War, and the Secretary of the Navy.

Mr. NICHOLS. When the gentleman says "with the approval," I presume that any of them might suggest, and then all of them would have to agree. The selection does not have to be made by the Administrator of the C. A. A. or by the Secretary of War or by the Secretary of the Navy.

Mr. WOODRUM of Virginia. That is correct.

Mr. NICHOLS. Any of them may do that?

Mr. WOODRUM of Virginia. That is correct.

Mr. TABER. If the gentleman will yield, all three of them have to agree on it before it can be done.

Mr. WOODRUM of Virginia. All of them have to concur before it is an approved project.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman.

Mr. RICH. In reference to vocational education, as I understand, the money that was requested by the National Youth Administration for vocational education is to be spent by the Office of Education and not by the Youth Administration.

Mr. WOODRUM of Virginia. The part of it that is for the training program is to be under the Office of Education. That part that is for the work projects is to be carried on by the National Youth Administration.

Mr. RICH. How do you define the difference?

Mr. WOODRUM of Virginia. The amounts are divided in the bill.

Mr. PACE. That was not changed?

Mr. WOODRUM of Virginia. There is some slight change made in the language.

Mr. CONNERY. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield to the gentleman from Massachusetts.

Mr. CONNERY. I have in my mind an airport in my district which is being improved under a W. P. A. project, municipally sponsored. Should that particular airport be selected as one vital to national defense by this Board and approved, can the gentleman tell us what arrangement will be made in such instance?

Mr. WOODRUM of Virginia. The Board would have the right to approve that for such additional improvements as it felt necessary.

Mr. CONNERY. But the project would continue on as municipally sponsored?

Mr. WOODRUM of Virginia. That is correct.

Mr. FERGUSON. Will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. FERGUSON. This $40,000,000 will probably be used in much the same manner that the $25,000,000 that has already been granted to increase the Federal participation now in W. P. A.?

Mr. WOODRUM of Virginia. The $40,000,000 does not in any way interfere with the W. P. A. program. They can go along together.

Mr. CHURCH. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. CHURCH. With reference to the W. P. A. amount, as I understand it, the W. P. A. amounts are available in addition to the $40,000,000 in this conference report. Are the W. P. A. amounts for airports placed by this conference report to be under this same Board?

Mr. WOODRUM of Virginia. No, it does not interfere with the W. P. A. program at all. That is the reason we put the proviso in there. But where a community has a W. P. A. project in progress it does not interfere with that at all. However, if this Board determined that that airport should have further improvement in order to permit the landing of large bombing planes, they might take some of this $40,000,000 to provide additional runways.

Mr. CONNERY. Will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. CONNERY. But is not a penalty placed upon that municipality, inasmuch as the municipality is making a contribution under the W. P. A. project?

Mr. WOODRUM of Virginia. I do not think so. Many municipalities have had W. P. A. projects.

Mr. FERGUSON. Will the gentleman have time to read the language put in by the Senate?

Mr. WOODRUM of Virginia. I just read it into the RECORD. Would the gentleman please take the conference report and look at it?

Now, Mr. Speaker, just one additional word before I reserve the balance of my time.

With the adoption of this conference report the work of the Appropriations Committee at this session of Congress, so far as I know, will be concluded. [Applause.] At least, I hope it will be.

In my 18 years of service in the House and 10 years of service on the Appropriations Commitee I have never encountered the amount of detailed work that has been laid on the doorstep of the Appropriations Committee. We have been in session almost continuously since right after Thanksgiving. Many times when the House was in recess and in vacation period, the Appropriations Committee and subcommittees were at work. My colleagues in the majority on the committee have had the primary responsibility for this work and have labored together in harmony and diligence and each Member deserves the thanks of the House and of the ccuntry for this painstaking and patriotic service. The clerks have worked with no vacations—day and night and Sundays and holidays.

I want also to pay my respects and express my appreciation to the gentleman from New York [Mr. TABER] and other minority members of the Appropriations Committee, the whole committee as well as this subcommittee.

In a large amount of work of this kind naturally there have been many places where there has been very marked differences of opinion about procedure and about the wisdom of this or that, but I can say that all of it has been handled in a spirit of good sportsmanship and with a desire, so far as I could tell, of trying to do the best thing for the country, trying to do the best thing for this defense program which has been so close to the hearts of all of us. We could not have carried through this defense program as expeditiously as we have carried it through had it not been for the splendid cooperation of the minority members of the Appropriations Committee. [Applause.] There have been many times and many places where there might have been dilatory tactics resorted to and technicalities and technical objections made that would have tied us up into knots, but almost without exception as far as the work of the Appropriations Committee is concerned, we have had the patriotic cooperation of the minority members.

I think it is only just and right that such a statement should be made upon the floor of this House, and I am very glad to make it. [Applause.]

Mrs. ROGERS of Massachusetts. Will the gentleman yield for a question?

Mr. WOODRUM of Virginia. I yield.

Mrs. ROGERS of Massachusetts. I am very much interested, as are all Members from Massachusetts and New England in the appropriation for the drydock at Boston. Is that in the bill today? The appropriation should be made for the drydock to go ahead with it at once. It is strategically located, and there is an exceptionally skilled and large group of labor available.

Mr. WOODRUM of Virginia. That appropriation has not been made.

Mrs. ROGERS of Massachusetts. I thank the gentleman very much for his information, but I regret deeply that no money has been appropriated. It is discrimination against Massachusetts.

Mr. WOODRUM of Virginia. Mr. Speaker, I reserve the remainder of my time, and I yield 10 minutes now to the gentleman from New York [Mr. TABER].

Mr. TABER. Mr. Speaker, this bill represents about $228,000,000 in direct appropriations and about $10,250,000 of contract authorizations, in addition to funds that have been previously appropriated.

I am not going to dwell on the question of the Civil Aeronautics Authority money for airports. I never had any idea that the Civil Aeronautics expected in any way to build most of the 3,900 or 4,000 airports that were contained in the list that was made public. My understanding is that this study was made public by inadvertence in the C. A. A. offices and that that is what the C. A. A. first reported to Members of Congress, although now they state that the publication of it was the work of the Appropriations Committee. But that is a minor matter.

There could have been no excuse for funds of this size and magnitude unless the money was for national defense at this time. The limitation of that money to that particular pur-

pose is undoubtedly proper and the determination of where it should be spent upon that basis is proper.

Mr. REED of New York. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. REED of New York. Is the use of these moneys limited to national defense?

Mr. TABER. It must be determined by the Secretary of the Navy, the Secretary of War, and the Secretary of Commerce that the airport is necessary for national defense in order for it to qualify for expenditure. On the list there were a large number of airports designated as qualifying for the purpose by the Civil Aeronautics Authority, probably two or three, and maybe four in each State. Those were the airports on which the Civil Aeronautics Authority Board had recommended large expenditures running anywhere from $300,000 to $700,000.

Mr. REED of New York. I am interested because when that report went out it stirred many of my communities and cities into action believing they were going to get an airport, hearing that their names were on the list; and I just wanted to know the facts. I assume from what the gentleman states that in order to get those airports it will be necessary for them to show that they are essential to national defense.

Mr. TABER. That is the understanding. I think I stated on the floor when the bill was up that very few of these places that were named in the list would receive airports out of this appropriation. I did not attempt to say it would be entirely limited to national defense, but that is the program the Secretary of Commerce recommended, and that the conferees adopted.

Mr. DONDERO. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. DONDERO. I have received similar requests from people in my district. Is that list available to the membership of the House?

Mr. TABER. Yes; it is available any time the gentleman wants to see it. I have a copy, and the gentleman can see a copy in the Appropriations Committee room.

Miss SUMNER of Illinois. Why not put it in the RECORD?

Mr. TABER. It is too big a document to put in the RECORD.

Mr. SCHAFER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. SCHAFER of Wisconsin. I am interested in these huge expenditures which we are told are for airports for national defense. Only a few weeks ago I spent half a day talking to a personal friend of mine, a pilot who had just returned from Europe where he had flown as an active pilot for about 5 years. He stated that insofar as national defense is concerned an airport which does not have some underground camouflaged and hidden hangars and runways is about as worthless in time of war as old Civil War muzzle-loading guns would be to men going over the top to take a modern machine-gun nest. I call attention to these facts in the interest of national defense. The Congress should realize that the expansive and expensive Gravelly Point airport adjacent to the Nation's Capital and all other airports in the country do not have a single underground, hidden, or camouflaged runway or hangar although more than $14,000,000 of public funds have already been expended for the Gravelly Point airport.

I ask the gentleman if it is contemplated in the construction and improvement of airports with funds provided for in this large appropriation whether they will be built for national defense or whether they will only be political pork-barrel airports? Will they have hidden, underground, or camouflaged runways and hangars?

Mr. TABER. We can only hope that the airports will not be political footballs. The second matter has not been gone into by our committee. The question was not raised until after the bill was reported out.

Mr. JENKINS of Ohio. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. JENKINS of Ohio. The gentleman may have answered this question, but as I understand it there is practically nothing to that list of all these airports that were to be established that created such a stir several weeks ago.

Mr. TABER. No, not in legislation pending at the present time.

Mr. JENKINS of Ohio. Now let me ask the gentleman this question, and I assure him I do not expect to hold him to any definite facts, but can he tell us about what amount of money this Congress has appropriated for airports, definitely appropriated for airports?

Mr. TABER. We have not provided for any airports except the Army and Navy airports. I cannot give the figure. The only other airport money that would be available would be what would result from the bill now before us.

Mr. VAN ZANDT. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. VAN ZANDT. I may say that in conversation this afternoon with a gentleman who speaks for the Civil Aeronautics Authority it is my understanding that the interdepartmental committee that will be appointed after this bill becomes a law will make a survey of all proposed and existing airports. This survey will be conducted from the standpoint of national defense. Where the need for national defense exists this money will apply, but at no other place.

Mr. TABER. I think that is correct.

Mr. THOMASON. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. THOMASON. Is there any airport that is now officially approved that comes under the provisions of this appropriation?

Mr. TABER. I do not know. I do not quite understand what the gentleman means by approved. There is no airport specifically named for which these funds are available. If by "approved" the gentleman means of an approved type, I think there are some airports of that character, but I would not undertake myself to supply the answer, because I lack the information.

Mr. THOMASON. I am sure certain types have been approved, and that specifications have been drawn for different types. But let me ask with reference to this list which has created so much confusion, there is not a single one of those airports that has been officially approved and the money specifically appropriated for it, is there?

Mr. TABER. Absolutely there is no allocation of any amount whatever, not a dollar of this $40,000,000 that is carried here in this conference report.

Mr. THOMASON. Then are we not safe in assuring our constituents who have become excited about that situation that none will be officially approved and the money specifically appropriated until the joint interdepartmental board has investigated and specifically given its approval. Is that right?

Mr. TABER. We might say that until and unless this joint committee that is going to be appointed picks out an airport as needed for national defense none of this $40,000,000 will be available for that airport.

Mr. THOMASON. Not to deceive the people in these communities mentioned in this list, we could tell them that they cannot rely upon that report because that money has not yet been appropriated for that purpose.

Mr. TABER. This money will have been appropriated as soon as the conference report is agreed to and the bill signed by the President, but none of it will be available for the construction or improvement of any airport or landing field until these three departments certify that the airport or landing field is necessary for national defense.

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield the gentleman 5 additional minutes.

Mr. MICHENER. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Michigan.

Mr. MICHENER. As a practical matter, can we not answer our constituents in this way: That this money is appropriated for national defense to be used in such places for airport development as the experts who are responsible for our national defense tell us it should be used, and that we as Members of Congress have no business, and we have no right to insist on the location of any airport in our respective districts, simply because we want to get something from the Government for nothing? The publication of that list of prospective airports was most unfortunate.

Mr. TABER. That is correct.

Mr. McGREGOR. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Ohio.

Mr. McGREGOR. Will this interdepartmental committee have power to determine the location and the type of these airports or is it simply a matter of making a recommendation?

Mr. TABER. Absolutely. It must have their approval or it cannot be done.

Mr. VORYS of Ohio. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Ohio.

Mr. VORYS of Ohio. As I understand, this bill provides for either the construction or improvement of 250 airports?

Mr. TABER. Not to exceed 250.

Mr. VORYS of Ohio. Was not the $25,000,000 in the W. P. A. bill for the improvement of airports?

Mr. TABER. I cannot remember exactly, but I think that is correct.

Mr. VORYS of Ohio. That is a total of $65,000,000 for not to exceed 250 airports?

Mr. TABER. The $25,000,000 is not limited to those 250 airports.

Mr. VORYS of Ohio. Your committee must have reviewed this matter pretty carefully. How many airports and how much money is involved in a national defense that has quadrupled our airplanes, not cutting down on the use of our commercial planes, and that will therefore give us need for about four times the number of airports we have now? What is the provision, before we leave here, for airports for national defense?

Mr. TABER. There is no provision that I know of except the regular appropriations in the Army and Navy bills for airports for national defense, with the exception of what is carried here and whatever might be used of the $25,000,000 carried in the W. P. A. bill. There are large appropriations for airplanes, and I may say there will be in the Army and Navy at least 10,000 training planes that will be flying around one place or another before the end of the present fiscal year, because those planes are easily and quickly built, and can be built by some of the smaller factories quite rapidly and made available for training purposes.

Mr. CRAWFORD. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Michigan.

Mr. CRAWFORD. I wish to inquire about two other items in this bill. I refer to page 14, the National Youth Administration. Do I understand from this language now that the $30,500,000 provided there will be placed in the hands of the State office of education and that this training program will be taken out of the hands of the Federal Government?

Mr. TABER. The technical training will be in the hands of the educational authorities in the different States, although the so-called incidental employment that may be given to the National Youth beneficiaries will be under the National Youth Administration, but their training and schooling will be under the regular school authorities.

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield the gentleman 5 additional minutes.

Mr. CRAWFORD. On page 28, there is an item of $18,250 for some kind of improvement in the living quarters of the High Commissioner to the Philippines. Are these additions that we have made to the new palace we recently built over there?

Mr. TABER. I expect it is. I do not know. I do not like that item myself.

Mr. MAHON. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Texas.

Mr. MAHON. I want the record to show that the $25,000,000 in the relief bill allotted to national-defense projects is not necessarily to be allotted to airport development. It may be used for other national-defense purposes.

Mr. TABER. Yes.

Mr. MAHON. And it should not be assumed it is all for aviation.

Mr. TABER. That is right.

Mr. COLE of Maryland. Will the gentleman yield?

Mr. TABER. I yield to the gentleman from Maryland.

Mr. COLE of Maryland. On page 42, under the heading "Coast Guard" the House appropriation was increased to the extent of $812,000 by the Senate, which item is for the building of ship ways at the Curtis Bay depot. This was in accordance with the Budget recommendation and I expressed at the time the bill was being considered by the House my disappointment in the fact the committee did not see fit to include it in its recommendations. I am glad now to be advised by the distinguished chairman of the subcommittee, the gentleman from Virginia [Mr. WOODRUM], that the conferees have agreed with the Senate amendment. The ship ways will therefore be built.

Mr. TABER. We are hoping it will work out all right.

Mr. VAN ZANDT. Will the gentleman yield for a brief question?

Mr. TABER. I yield to the gentleman from Pennsylvania.

Mr. VAN ZANDT. Is the provision still in the bill concerning the Bituminous Coal Commission, and I refer to the deficiency appropriation?

Mr. TABER. I do not think there is any Senate amendment with reference to that.

Mr. Speaker, with this bill we have appropriated in direct appropriations, including permanent appropriations, a total for this session of Congress of $20,107,000,000. The following table shows the appropriations and funds otherwise made available for expenditure at this session of congress, viz:

Direct appropriations	$15,768,339,250.12
Reappropriations	81,099,718.00
Permanent appropriations	3,965,049,289.00
Appropriations out of R. F. C. funds	277,000,000.00
Special funds	15,869,750.00
Total cash appropriations	20,107,358,007.12
Contract authorizations	3,596,699,511.00
R. F. C. loans:	
To war industry	1,000,000,000.00
To South America	500,000,000.00
Total available in all ways	25,204,057,518.12

Of which about $13,800,000,000 is for alleged national defense.

On Monday I am going to give a break-down of all these items for each department of the Government so that everybody may see just what the money has been provided for.

Mr. ENGEL. Mr. Speaker, will the gentleman yield?

Mr. TABOR. I yield to the gentleman from Michigan.

Mr. ENGEL. Will the gentleman also put in the RECORD at that time the Treasury figures, if he has them, on the total estimated income of the Government during this fiscal year and the amount necessary to be borrowed, together with the estimated national debt after this amount has been spent?

Mr. TABER. I shall do that, and be glad to do it.

Mr. Speaker, there have been large appropriations for national defense. One thing happened yesterday that rather disturbed me. The Attorney General rendered an opinion which declares it illegal for contracts to be let, and makes invalid, I understand, all the contracts that have been let for national defense to a very large number of industries, any industries which have an order of any kind against them by the National Labor Relations Board, even if it is under appeal, under the provisions of the National Labor Relations Act. This will stop the contracts that are outstanding by probably 30 percent. In my opinion, this ruling of the

Attorney General is not good law. To satisfy people that it is not good law, it is hardly necessary to do much more than cite the fact that an attempt was made to confine contracts to those who had had no ruling made against them. They would not have tried that if the law now provided for it. The Attorney General has sabotaged the defense program. If a Republican had obstructed the national defense program the way this Attorney General has, he would be called a "fifth columnist" by the present occupant of the White House.

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield 3 additional minutes to the gentleman from New York.

Mr. TABER. Mr. Speaker, I have been through in hearings and in time on the floor practically the whole of the last 12 months on appropriation bills. We have probably had to handle more work and more money than any other committee since 1918. I have not always agreed with the majority of the committee. Sometimes I have opposed them quite vigorously. Sometimes we have had debate here on the floor. But I have come to admire and respect the members of the majority on the Deficiency Committee, Messrs. ED TAYLOR, CLIFF WOODRUM, CLARENCE CANNON, GEORGE JOHNSON, LOUIS LUDLOW, BUELL SNYDER, and EVERETT O'NEIL, more and more as I have had more contact with them, and have come to appreciate more and more the hard, sincere, and patriotic work they have been doing. [Applause.]

I wish to extend at this time my thanks and appreciation to the Members on my own side of the aisle on that committee, Messrs. DICK WIGGLESWORTH, BILL LAMBERTSON, and BILL DITTER. They have been faithful and loyal to the interests of the country as they see them. [Applause.]

It has been a hard and a trying session. It has been one where tremendous responsibilities have been placed on us. Sometimes we have had to bring in here appropriations for things which were needed and for which we could not have the usual printed hearings. In my opinion, we should not get into those things where it is necessary that national defense be protected.

In my judgment, the Deficiency Committee and the whole Appropriations Committee have discharged their duties toward this defense problem in a highly sincere and patriotic manner, and I wish at this time to pay my respects to them. [Applause.]

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RICH].

Mr. RICH. Mr. Speaker, being a member of the Appropriations Committee, I, too, feel that the members of that committee, both those on the Deficiency Committee and the other members of the committee, are just as fine men as we have in the House of Representatives, but I certainly have not agreed with the work we have done as far as appropriations are concerned. Probably I may lay it to the laws the House of Representatives has passed, which create a great demand for spending.

A few minutes ago the gentleman from New York [Mr. TABER] brought out the fact that we have appropriated at this session of Congress $24,700,000,000. If you take into consideration the fact that the amount of revenues you will receive will be about $7,500,000,000, including the two tax bills we have passed, we are going to be about $15,000,000,000, $16,000,000,000, or $17,000,000,000 in the red. If the Appropriations Committee did a good job, then somebody is lax in the House of Representatives, maybe the Committee on Ways and Means, for permitting us to appropriate that enormous sum more than we are going to receive. In view of the fact that for the last 10 years we have been in the red every year from $1,500,000,000 to $4,000,000,000 something is going to happen. We cannot continue to go on in that way.

I want to call your attention to some of the appropriations in this bill which I contend never should have been made. The Deficiency Committee should have called in the men who had charge of certain appropriations so that we would not have permitted these appropriations to be made.

I believe one of the greatest recommendations to the Appropriations Committee was made by the gentleman from Virginia [Mr. WOODRUM], that each subdivision of the Appropriations Committee should have a man, to be paid $10,000 a year, to keep the Appropriations Committee informed of just what was going on. If we should have such a man for each of the 10 subcommittees, and if these men were efficient and desirous of trying to keep this country within its limit of spending, it would be the cheapest money the Appropriations Committee could spend and it would be along the lines of good business.

Let me call your attention to some of these appropriations. Here is the High Commissioner of the Philippine Islands. We gave him $750,000 to build a home in Manila and then we gave him money enough to build a home out in the suburbs. Now he comes in here and asks us to give him $18,250 for the improvement of that house and for additional operating expenses. That money should never be appropriated and should not be included in this bill. Why they have granted that money I do not understand.

Then here is the Bonneville Power Administration. We set up a yardstick down in the T. V. A., and now we have appropriated in the War Department bill, and almost every bill this year, something for Bonneville and Grand Coulee, and we give them here $3,850,000. We give the Bituminous Coal Commission $137,000, the most extravagant and wasteful commission we have ever had. That money should not have been added to this bill, or at least the other members of the Appropriations Committee should have been called in and should have been considered in the appropriation of that money. Then we have the Bureau of Reclamation and a lot of other items, including the Pine River project in Colorado, involving $400,000, and the Colorado River project involving $2,500,000. These items could have been deferred another year. Then we have an appropriation of $10,000 to the Jamestown Museum. This money should not be appropriated now, and I could have stricken out a lot of other items, and it would have been a mighty fine thing if they were stricken out.

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I have asked for these few minutes so that I may, in my own humble, simple, and inadequate way, pay my tribute to a Member of this House whom I consider one of the most remarkable men who ever sat in the Congress during the century and a half of history of this Nation. I refer to Congressman EDWARD T. TAYLOR, of Colorado, chairman of the Appropriations Committee of the House of Representatives.

My colleague the gentleman from New York [Mr. JOHN TABER] the ranking Republican of this great committee, of which I have the privilege of being a member, told us a few moments ago that the total appropriations and authorizations for all purposes at this session of Congress amounted to $25,000,000,000. Two years ago I compiled the figures giving the total assessed valuation of the United States as that valuation was determined by the local assessing officers of the several States. The total assessed valuation of the 48 States was approximately $134,000,000,000. The total appropriations and authorizations made at this session of Congress, according to the gentleman from New York, amount to almost 20 percent of that assessed valuation. I am not saying this for the purpose of criticizing, but rather to point out the tremendous task this great committee has had during the past 9 months. It is indeed remarkable that the man who has been chairman of this committee which has held hearings and passed upon this tremendous sum of money is now in his eighty-third year.

ED TAYLOR is one of the finest and most lovable characters in American history. He was graduated from the University of Michigan in 1884, and was president of his class. He

studied and worked with the famous Judge Cooley, and while working for Judge Cooley proofread that monumental legal landmark, Cooley's last edition of Blackstone. He served his State and Nation in various capacities for nearly a half a century, and is now serving his sixteenth successive term in the House of Representatives.

We of Michigan are proud that he is an alumnus of the University of Michigan, of which I have the honor of being an honorary alumnus. He brings to the House and to the committee that tremendous experience and judgment which comes with lifelong service. God has been very kind to him and showered him with many blessings and in blessing him has blessed his State and his Nation. God has permitted him to enjoy, at the age of nearly 83, the health, mental vigor, and vitality of a man of 50. The Nation has been fortunate in having in Congress and at the head of this committee a man with 83 years of life and all the experience that 83 years of clean living brings with it. It has been a rare privilege to serve with him and under him. I have learned to love him and everything that he is and has been; for his patience, his kindness, and his help. My prayer is that the Almighty God may give him many more years of life, health, and happiness. God bless you, ED TAYLOR. [Applause.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield such time as he may desire to the gentleman from South Dakota [Mr. CASE].

Mr. CASE of South Dakota. Mr. Speaker, from the remarks made by the gentleman from New York [Mr. TABER], we are to understand that an opinion rendered by the Attorney General of yesterday has invalidated practically 30 percent of the contracts that had been let for the national-defense projects. It is my opinion if that is the situation the Congress should certainly not adjourn until it has been corrected. As I understand it, the opinion has invalidated contracts where an order has been issued against firms by the National Labor Relations Board. This certainly is a problem that is of the utmost importance to national defense and the Congress will be held guilty by the country if we adjourn before that situation is corrected. [Applause.]

Mr. WOODRUM of Virginia. Mr. Speaker, I yield to the gentleman from Oregon [Mr. ANGELL] such time as he may require.

Mr. ANGELL. Mr. Speaker, will the gentleman from Virginia yield for a question?

Mr. WOODRUM of Virginia. Yes.

Mr. ANGELL. Does this conference report include an item of $4,000,000 for the completion of the turbines in the Bonneville project?

Mr. WOODRUM of Virginia. Yes; it does.

BONNEVILLE PROJECT AND NATIONAL DEFENSE

Mr. ANGELL. Mr. Speaker, with reference to the conference report on the deficiency bill now before us for consideration, H. R. 10539, it may be recalled that when the bill was before the House recently I discussed the matter of the appropriation carried therein providing $3,850,000 for the Department of the Interior, Bonneville Power Administration, for construction, operation, and maintenance of the Bonneville power-transmission system.

There is an additional item now included in the conference report on this bill of $4,000,000. This appropriation was added in the Senate and is a pure precautionary defense item. It was approved by the Bureau of the Budget and sent up to the Senate by the War Department.

Does this conference report include an item of $4,000,000 for the completion of the foundations of the remaining turbines in the Bonneville project?

Last August the Bonneville Administrator, through the Secretary of the Interior, advised the Secretary of War that it was necessary to schedule the completion of Bonneville units 7 to 10, inclusive, to meet estimated load resulting from defense and normal regional load increased. The War Department then sent the Administrator's schedule to the Portland engineer's office for information and estimate, and did not receive a return in time to have the matter presented to the House committee.

Bonneville has now 107,000 kilowatts under contract, including the 65,000 kilowatts now going to the Aluminum Co. A nationally famous industry, one of the most vital cogs in our defense program, has asked the Bonneville Administrator for 97,000 kilowatts. This load will materialize, as our airplane construction program requires this power. Seven other defense industries have asked for power reservation totaling between 200,000 and 250,000 kilowatts. If only 40 percent of these latter applications result in firm contracts, Bonneville will be short of power.

For some time I have stressed the great national weakness of our defense program, and have pointed out ways and means to correct the situation. This appropriation item is one step in such a remedial program, but we greatly need to go further. I do not believe that Congress or the American people fully realize our dependence on imported metal stock piles. Definite defense bottlenecks exist in the critical metals like nickel, manganese, chrome, and antimony. In this connection I can extend the remarks I made last May on the nickel situation. Armor plate is a nickel-steel alloy, and our entire naval program rests on the supply of nickel from one Canadian smelter. If anything happens to this one plant, armor-plate production will be retarded.

Fortunately large deposits of natural nickel-steel ore are located in Alaska, adjacent to tidewater, and can be boated at a low cost to the Bonneville area for electro-thermal reduction. Our administrative officers should immediately take steps to protect the armor-plate supply, and ample low-cost power should be available for this eventuality.

Modern metal-reduction processes depend on the electric furnace and the electric cell. The Northwest has ample supplies of basic ores and large blocks of potential hydro power. These should by all means be hitched together. For some time I have developed the basic facts in this all-important subject. Anyone who is familiar with the strategic and critical material situation will urge the development of our available supply of low-cost power. For this reason I have urged the adoption of the $4,000,000 item, which is 100 percent recoverable under the act of August 20, 1937.

Mr. Speaker, I believe these additional appropriations to carry on toward completion the transmission facilities of the Bonneville project and complete the additional power units is a wise procedure. As I have said, the dam itself has long since been constructed, and the Federal Government has a large investment therein and we may be called on on short notice to provide increased loads of electrical energy to proceed with our defense program. We have recently appropriated $65,000,000 for additional facilities for that purpose at the T. V. A. This additional power made available at Bonneville under these increased facilities will add materially to our power capacity, and I append as a part of my remarks certain tables which will make clear power capacity and dates available of the Bonneville project loads under the programs now authorized by the Congress.

The tables referred to are as follows:

TABLE 1.—*Bonneville project installation schedule and capacity Bonneville units*

Date	Units	Installed capacity (kilowatts)			
		With suggested appropriation unit capacity	Cumulative capacity	Without suggested appropriation unit capacity	Cumulative capacity
At present	1 and 2	43,200	86,400	43,200	86,400
Jan. 1, 1941	4	54,000	140,400	54,000	140,400
Jan. 15, 1941	3	54,000	194,400	54,000	194,000
Jan. 1, 1942	5 and 6	54,000	302,400	54,000	302,400
July 1, 1943	7 and 8	54,000	410,400	(1)	(1)
Jan. 1, 1944	9	54,000	464,400	(1)	(1)
July 1, 1944	10	54,000	518,400	(1)	(1)

[1] Completion dates for units 7, 8, 9, and 10 without suggested appropriation will depend on future appropriations, but will most probably be 1 year later than with suggested appropriation, because of time difference (Oct. 15, 1940 and July 1, 1941) and shop delays of machine manufacturers.

No allowance made in above for holding 1 unit in reserve.

Based on normal unaccelerated schedule for units 7 to 10, inclusive, and continuing appropriations for these units.

Derived from table p. 180, House hearings, first supplemental appropriation bill for 1941, corrected for change in schedule submitted by Chief of Engineers for unit 9.

TABLE 2.—*Bonneville project estimated load schedule*

Date	Item	Load or increase rate	Cumulative load
		Kilowatts	*Kilowatts*
Present	Executed prime contracts	106,850	106,850
Do	Contracts submitted but not executed	10,800	117,650
Do	Dump power [1]	60,000	177,650
Do	X company defense load [2]	100,000	277,650
Do	Total in sight load		277,650
July 1, 1942	Estimated industrial [3]	100,000	377,650
Jan. 1, 1943	Regional increase [4]	82,000	459,650
July 1, 1943	do.[5]	24,000	483,650
Jan. 1, 1944	do.[5]	24,000	507,650
July 1, 1944	do.[5]	24,000	531,650
Jan. 1, 1945	do.[5]	24,000	555,650

CONCLUSIONS FROM TABLES 1 AND 2

July 1, 1941—Installed capacity of 194,400 kilowatts. Will not take care of total in sight load. 60,000 kilowatts of dump power will have to be dropped or handled by interchange to take care of 76 percent of defense load.[2] No Bonneville power will be available for load.[3] Will have to draw on interchanges.

July 1, 1942—Bonneville will be short of capacity about 75,000 kilowatts.

Jan. 1, 1943—And succeeding years, with normal schedule of completion under suggested deficiency appropriation.

[1] Dump power sold to private utilities, which are short of capacity to handle their own load. For dump load see p. 183 of House hearings, less prime utility contracts listed p. 184.

[2] Defense load request from 1 of the principal American metal companies now supplying the bulk of metal to airplane industry—97,000-kilowatt plant load plus line loss.

[3] Bonneville Administrator has preliminary reservation requests from 7 metal and chemical companies, totaling about 250,000 kilowatts. To be conservative only 40 percent of these requests was taken to represent firm contracts. This represents 100,000 kilowatts, the same as load from X company. Bonneville will not have capacity to meet any further defense load.

[4] Yearly increase derived from table, p. 194, House hearings, and excluding load areas tributary to Grand Coulee.

[5] Same as footnote 4 above, except calculated on 6-month basis.

Mr. WOODRUM of Virginia. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma [Mr. NICHOLS].

Mr. NICHOLS. Mr. Speaker, I want to compliment the House conferees on the fact that they insisted on the $40,000,000 remaining in this bill of the $80,000,000 that was originally in it for the construction of airports.

I also want to state to the membership that you had just as well get ready to appropriate a great deal more than $40,000,000 in the session to come for the construction of airports. We have a program in this country aimed at 50,000 airplanes. You would be surprised if you would make a survey of the landing facilities throughout the United States, to know that we did not have enough airports even to take care of the airplanes that we have at this time. Fifty thousand airplanes is a lot of airplanes, and it will take a whole lot more airports than we now have to accommodate them.

If I may point out one or two things to you, you know that we have only four class 4 airports in the United States for commercial purposes. A class 4 airport is simply this: It is an airport with runways of at least 5,000 feet, adequate hangar space with illumination—I mean lighting—and radio beams; only four such in the United States. When Gravelly Point is completed it will be the fifth one.

You have surprisingly few airports in the United States which will accommodate a squadron of airplanes. This program has to go on. We have not invented sky hooks yet. We must have places to land and house these airplanes.

Beyond that, we have a great training program going on. There are fields in the country today where on a single field you will have these three operations, a training program for student pilots under the C. A. A. program; you will also have the operation of a squadron of Army planes, at least. At the same airport you have from 18 to 50 scheduled commercial airplane landings there, and you might even have a training school there for the Army under one of these factory training schools—all of them working on one field and under most trying conditions; conditions that are not safe for the training of students; conditions that are not safe for the training of Army or Navy students, and certainly not safe for the landing of commercial travelers.

This thing is happening all over the country today where commercial aviation and cities have at their own expense developed great airports in about the third class. The Army, in order to find a place to train our Army flyers comes along and literally pushes them off of the field and takes away that airport from the city in order to train our Army and Navy flyers.

So this country has to spend a lot more than $40,000,000. This is a good start. I think it is probably as strong as we should have gone now, but in January you can just get ready to appropriate hundreds of millions of dollars for the construction of airports throughout this country, because, not having airports and having 50,000 airplanes is just the same as having a big navy and no place to dock it.

Congressman EDMISTON and myself recently obtained through the War Department an Army bomber and flew to the west coast. We then zigzagged back and forth to Washington, looking over airport facilities, or probably I should say a lack of airport facilities. On this trip we paid our own expenses so that we could return and give you first-hand information as to the inadequacy of landing and training facilities throughout the United States. We only scratched the surface but saw enough to convince us that the construction of airports throughout the United States is as much a vital part of the national-defense program as is the expansion of the Army and the Navy.

C. A. A. students should not be training on fields where there are large Army, Navy, or commercial activities. Neither should Army students, working under a factory school, such as the Spartan School in Tulsa and Muskogee, Okla., be trained where there are Army, Navy, or commercial activities.

We saw fields in California where it was so hazardous for our pilots to attempt to land our airplane, because of student flyers who did not have radio connection with a control tower, that it was necessary for us to fly to another field to land.

The largest airplane in the world is being constructed at the Douglas factory in Santa Monica, Calif., and will be known as a B–19 bomber, with a wing spread of 210 feet, a length from tip to tail of 165 feet, a gasoline capacity of 11,500 gallons. They will have to take this airplane off of the ground of an airport which has runways of only 2,500 feet.

Commercial aviation, through its development, has developed both airplanes and airports to the point that we now lead the world in this field, and it is not right that this operation should be forced off of the airports which they and local communities have developed in order to train Army, Navy, and civilian flying personnel. This system of airports must so be arranged across the United States that when this emergency is over and the Army and Navy, because of reducing their activity, no longer needs them, all of them will be ready and accessible for use in the commercial and private flying fields, which is bound to follow after this emergency has passed.

I am here, of course, only hitting the high spots in making these remarks, for the purpose of serving notice on those of you who have not stayed abreast of the rapid evolution that has taken place in aviation, that you have got to get ready to spend enormous sums of money to provide housing, landing, and training facilities for the vast number of airplanes that we have in this Congress appropriated money to build.

My conservative brethren had just as well get ready to loosen up, because if you are to remain conservative, you can only do that by providing these facilities. They are as vital as are roads to automobiles; road beds to railroads; docks and deepened channels to the steamship.

[Here the gavel fell.]

Mr. WOODRUM of Virginia. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

Mr. WOODRUM of Virginia. Mr. Speaker, there are eight amendments in disagreement. I ask unanimous consent that

amendments numbered 11, 23, 24, 37, 43, 48, and 59 be considered en bloc. There is nothing controversial about them.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

Amendment No. 11: Page 4, line 21, insert:

"GOVERNMENT PRINTING OFFICE

"The Superintendent of Documents is hereby authorized to deliver to the Librarian of Congress, from the sales stock in the Government Printing Office, 250 sets of The Writings of George Washington, as published by the Bicentennial Commission, for distribution through international exchange and for such other distribution for the use of foreign governments as may be deemed appropriate."

Amendment No. 23: Page 17, after line 14 insert:

"Navy Department Building, Washington, D. C.: For the construction of an additional wing on the Navy Department Building and an additional story on wing No. 1 thereof under the provisions of the Public Buildings Act approved May 25, 1926, as amended, including administrative expenses in connection therewith, $590,000: *Provided*, That the contract or contracts for such project may be entered into without advertising."

Amendment No. 24: Page 18, after line 14, insert:

"GEORGE WASHINGTON BICENTENNIAL COMMISSION

"For payment to Katherine H. Clagett and to the estate of Dr. John C. Fitzpatrick $2,700 and $6,666.66, respectively, for services rendered the George Washington Bicentennial Commission in connection with the compilation of the definitive writings of George Washington, $9,366.66: *Provided*, That the payment to the said Katherine H. Claggett shall be in full, complete, and final compensation of any and all claims arising out of services rendered to the George Washington Bicentennial Commission prior to June 30, 1940."

Amendment No. 37: Page 28, after line 2, insert:

"Appropriations available to the Department of the Interior for the fiscal year 1941 for soil and moisture conservation operations shall be available for packing, crating, and transportation, including drayage, of personal effects of employees upon permanent change of station, under regulations to be prescribed by the Secretary of the Interior."

Amendment No. 43: Page 30, after line 23, insert:

"Eastern Cherokees: For the relief of the Eastern Cherokees, as authorized by the bill (S. 4232) entitled 'An act for the relief of the Eastern Cherokees,' Seventy-sixth Congress, fiscal year 1941, $1,997.84, without interest and to be in full settlement of all claims of such tribe of Indians against the Government as found to be due by the Supreme Court of the United States in 1906 (202 U. S. 101)."

Amendment No. 48: Page 34, after line 18, insert:

"Legislative expenses, Territory of Alaska, 1939: The limitations in appropriations for legislative expenses, Territory of Alaska, as contained in the Interior Department Appropriation Act, 1939, and the Third Deficiency Appropriation Act, fiscal year 1939, are hereby amended to read as follows:

" 'For salaries of members, $21,585; mileage of members, $9,448.40; salaries of employees, $5,160; printing, indexing, comparing proofs, and binding laws, printing, indexing and binding journals, stationery, supplies, printing of bills, reports, etc., $14,458.81; in all $50,652.21.' "

Amendment No. 59: Page 43, at the bottom of the page, insert:

"Removal and reestablishment of Arlington Farm, Va.: For the removal and reestablishment of the functions and activities at Arlington Farm, including the acquisition of lands by purchase or by condemnation, the construction and installation of buildings, equipment, and utilities and appurtenances thereto, including the employment of persons and means in the city of Washington and elsewhere, $3,200,000, to remain available until expended: *Provided*, That this appropriation shall be transferred to the credit of the Secretary of Agriculture for expenditure by him: *Provided further*, That upon the transfer of the activities of the Department of Agriculture from Arlington Farm, so much of the land thereof as may be required by the War Department shall be transferred to the control and jurisdiction of the latter Department."

Mr. WOODRUM of Virginia. Mr. Speaker, I move to recede and concur in the above amendments.

The motion was agreed to.

The SPEAKER. The Clerk will report the other amendment in disagreement.

The Clerk read as follows:

Amendment No. 34: Page 24, after line 19, insert:

"For all necessary expenses incident to the care, operation, maintenance, and protection of the Washington National Airport in accordance with the act of June 29, 1940, including personal services in the District of Columbia, purchase, operation, and maintenance of one motor-propelled ambulance, one fire-and-crash truck, and one rescue fire-and-crash motorboat; purchase (including exchange), operation, and maintenance of two passenger-carrying motor vehicles; purchase of equipment, materials, and supplies, including $700 for the purchase, cleaning, and repair of uniforms for the guards, $152,200, and, in addition, the sum of $103,450 is transferred to this appropriation from the appropriation 'Maintenance and operation of air-navigation facilities,' contained in the Independent Offices Appropriation Act, 1941: *Provided*, That $15,000 of this appropriation shall be available for personal services in the District of Columbia, employed in connection with the completion of the construction of said airport, without regard to the Civil Service Act and regulations."

Mr. WOODRUM of Virginia. Mr. Speaker, I move to recede and concur in the Senate amendment.

I now yield 5 minutes to the gentleman from New York [Mr. TABER].

Mr. TABER. Mr. Speaker, this amendment calls for $255,650 for the maintenance of the Gravelly Point Airport. If your town or my town has an airport we pay for the land, we pay generally for a very considerable part of the construction of the airport, and we pay for the maintenance of the airport.

The Washington Airport cost $14,000,000 under the direction of the Civil Aeronautics Authority, the W. P. A., and the P. W. A.—three times what the investigating committee of the Committee on the District of Columbia thought should be spent for the airport at this particular site 2 years ago. Every dollar of it has come out of the Federal Government, and now it is proposed that $255,000 be provided for the maintenance and operation of this airport for the rest of this fiscal year. I am not going to try to get a roll call on this but I am serving notice that in my opinion the District of Columbia ought to have an opportunity to pay part of the expense of operating this airport, and I believe that as we get to the proposition in future years we should provide that the District pay a good part of the operating cost of this airport.

Mr. NICHOLS. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. NICHOLS. Does the gentleman know that there is a bill now pending fixing the boundary between the District of Columbia and Virginia which proposes to encompass all of the National Capital Airport in, make it a part of, and cede it to the State of Virginia?

Mr. TABER. No; I did not know that.

Mr. NICHOLS. That bill is now pending before the Committee on the District of Columbia. As the airport stands at the present time it is half in the District and half in Virginia. The boundary line runs through the middle of it. That portion which was reclaimed from the river is in the District of Columbia, the other portion is in the State of Virginia. The Natonal Capital Parks and Planning Commission introduced a bill to place it all in Virginia. I have offered an amendment to this bill to put it all in the District of Columbia where it belongs.

Mr. TABER. Certainly.

Mr. NICHOLS. And in that case I agree with the gentleman that the District should provide the money for its upkeep.

Mr. TABER. Undoubtedly it should contribute a large part. I hope the gentleman's bill passes.

Mr. NICHOLS. The other bill would give it all to Virginia.

Mr. TABER. Then Virginia should pay the cost of its operation.

Mr. NICHOLS. No; Virginia wants to collect the taxes.

Mrs. ROGERS of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mrs. ROGERS of Massachusetts. I am very much shocked that there is no appropriation for the drydock at Boston. I feel that Boston is being severely discriminated against in not being given money for this drydock. Was it because the Budget did not submit an estimate? I know the Budget is the President so far as appropriations are concerned, but did they not submit an estimate? I cannot understand why we failed to get this appropriation.

Mr. TABER. I do not remember that there was a Budget estimate. My understanding is there was not. I will, however, check on this before my remarks are printed. My understanding is there was no Budget estimate for it. I know none was cut.

Mrs. ROGERS of Massachusetts. It is a discrimination which ought not to be, for unless we take care of our drydock facilities we will find ourselves in the position of having ships but no docks for them. If we had the drydocks at

Boston, some of the mistakes that have been made elsewhere by the Navy Department in the ships such as building ships that will not stay upright and sending out of ships with inadequate equipment would not be made.

Mr. CASE of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. TABER. I yield.

Mr. CASE of South Dakota. Referring again to the National Capital Airport and the matter of jurisdiction, one important question to be considered in this connection is that of gasoline taxes.

Mr. TABER. It would be important; yes.

[Here the gavel fell.]

Mr. WOODRUM of Virginia. I yield to the gentleman from Nebraska to ask a question.

Mr. McLAUGHLIN. Mr. Speaker, I appreciate very much the courtesy of the distinguished gentleman from Virginia in yielding to me. I should like to ask him just one question concerning the conference report item of $40,000,000 for airports to be allocated upon the authority of the interdepartmental board to be set up acting in conjunction with the Civil Aeronautics Authority for the improvement of existing airport facilities in cities throughout the country. The inquiry which I should like to make is whether this money is available to the cities for the purchase of land, or whether it is limited to other purposes?

Mr. WOODRUM of Virginia. It is not available to the cities, but these funds may be used by this joint board wherever they determine it is necessary for a defense project. I would say to the gentleman from Nebraska that those instances would be very rare and would be where there was no community or city nearby which could purchase and furnish the land for their airport. It would not be considered that this board would use this fund to buy land in cities for the purpose of building airports.

Mr. McLAUGHLIN. One further question, if the gentleman will bear with me. The city of Omaha, my home city in my district, at the present time is planning to hold an election to vote a substantial bond issue for the purpose of securing by purchase additional land to be added to the present airport. Does the gentleman believe that the money involved in this bill, the $40,000,000 or any part of it, would be available to the city of Omaha for the purchase of land as an addition to existing airport facilities?

Mr. WOODRUM of Virginia. I should think in the case of a city like Omaha that it would not be. Were it a case where this board should find that the local community could not buy its own land it might, but in the case of a splendid city like Omaha it would be expected that the city would furnish the land.

Mr. LUDLOW. If the gentleman will permit, it is all predicated upon national defense.

Mr. WOODRUM of Virginia. Yes; it is all predicated upon the question of national defense.

Mr. MURDOCK of Arizona. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. MURDOCK of Arizona. Perhaps the gentleman has just answered one question I had in mind when I rose. Is the determination of the location of these airports, or their need of improvement, made solely on the basis of national defense, or does it take into consideration also the facilitation of commerce?

Mr. WOODRUM of Virginia. It is confined to national defense.

Mr. MONRONEY. Mr. Speaker, will the gentleman yield?

Mr. WOODRUM of Virginia. I yield.

Mr. MONRONEY. Is it not a fact that this $40,000,000 can be used as sponsorship funds under a W. P. A. project, and if so used would it not provide upward of $150,000,000 or $200,000,000 worth of airport work?

Mr. WOODRUM of Virginia. They can work together with the W. P. A., the C. C. C., or any of those other agencies.

Mr. MONRONEY. This $40,000,000 will be used as sponsorship money?

Mr. WOODRUM of Virginia. I would not like to term it "sponsorship" money. They will have to work out their cooperation with the W. P. A., C. C. C., and other public agencies, Federal and non-Federal.

Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the motion to recede and concur.

The motion was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. TABER. Mr. Speaker, I ask unanimous consent to revise and extend the remarks I made here today and to insert a table that I referred to when I had the floor.

The SPEAKER. Is there objection to the request of the gentleman from New York [Mr. TABER]?

There was no objection.

IMPROVEMENT OF CERTAIN RIVERS AND HARBORS IN THE INTEREST OF NATIONAL DEFENSE

Mr. MANSFIELD. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 9972) authorizing the improvement of certain rivers and harbors in the interest of the national defense, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments and ask for a conference.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. MANSFIELD]?

Mr. CURTIS. Mr. Speaker, reserving the right to object, I wonder if it would be possible for the gentleman to have the House take this bill up at this time? If it goes to conference it will be delayed, and this bill should be passed now.

It contains an amendment introduced in the Senate by Senator NORRIS for an authorization for the Harlan County Dam, also known as the Republican City Dam, on the Republican River in Nebraska, according to House Document 842, Seventy-sixth Congress. This proposal is very meritorious. It would authorize an appropriation to be made for an on-river dam near the town of Republican City. This dam has been approved by the district engineer, the division engineer, and the Chief of Engineers.

Last spring the Flood Control Committee, of which I am a member, held exhaustive hearings on this proposal. The committee favored it and reported it out to this House. This dam should be built now.

I wish that I could impress upon the House the great need out in that part of Nebraska. They have been waiting for some flood-control work on this river for a long time. Many lives have been lost and millions of dollars' worth of property destroyed. On previous occasions I have told the House of the needs of this valley.

This dam will provide for water storage for irrigation in four Nebraska counties and some in Kansas. It is right in the drought area and the Dust Bowl. Those people have not raised a crop for 7 long years.

If our experience in the last World War in regard to the production of food is any criterion, the construction of this dam would play a great part in our national-defense program.

This dam will also give great protection to Kansas City, Kans., and Kansas City, Mo. These great cities, with their railroads, public utilities, airports, and national-defense industries, are a most important part of the national-defense works of this country. The Norris amendment should go through.

Mr. MANSFIELD. I do not think this bill can go through without going to the conference committee.

Mr. STEFAN. Mr. Speaker, reserving the right to object, I understand an amendment has been placed in this bill by the Senate which has to do with the authorization of a dam in the State of Nebraska, in the district of my colleague the gentleman from Nebraska [Mr. CURTIS]. I feel that the gentleman from Nebraska [Mr. CURTIS], who has worked so diligently on this particular project, should have an opportunity to say something about the matter at this particular time. I shall not object to the request, however.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. MANSFIELD]?

There was no objection; and the Speaker appointed the following conferees on the part of the House: Mr. MANSFIELD, Mr. GAVAGAN, Mr. PARSON, Mr. CARTER, and Mr. DONDERO.

Mr. MANSFIELD. Mr. Speaker, I ask unanimous consent that the conference report may be considered and acted upon without delay upon being filed.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. MANSFIELD]?

There was no objection.

NATIONALITY ACT OF 1940

Mr. LESINSKI filed the following conference report and statement on the bill H. R. 9980, to revise and codify the nationality laws of the United States into a comprehensive nationality code:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9980) to revise and codify the nationality laws of the United States into a comprehensive nationality code, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 3.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 4, 6, 7, 8, 9, 10, and 11, and agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of inserting the matter proposed to be inserted by the Senate amendment insert on page 92 of the House bill, between lines 10 and 11, the following:

"SEC. 503. If any person who claims a right or privilege as a national of the United States is denied such right or privilege by any Department or agency, or executive official thereof, upon the ground that he is not a national of the United States, such person, regardless of whether he is within the United States or abroad, may institute an action against the head of such Department or agency in the District Court of the United States for the District of Columbia or in the district court of the United States for the district in which such person claims a permanent residence for a judgment declaring him to be a national of the United States. If such person is outside the United States and shall have instituted such an action in court, he may, upon submission of a sworn application showing that the claim of nationality presented in such action is made in good faith and has a substantial basis, obtain from a diplomatic or consular officer of the United States in the foreign country in which he is residing a certificate of identity stating that his nationality status is pending before the court, and may be admitted to the United States with such certificate upon the condition that he shall be subject to deportation in case it shall be decided by the court that he is not a national of the United States. Such certificates of identity shall not be denied solely on the ground that such person has lost a status previously had or acquired as a national of the United States; and from any denial of an application for such certificate the applicant shall be entitled to an appeal to the Secretary of State, who, if he approves the denial, shall state in writing the reasons for his decision. The Secretary of State, with approval of the Attorney General, shall prescribe rules and regulations for the issuance of certificates of identity as above provided."

And on page 92 of the House bill, line 11, strike out "Sec. 503" and insert "Sec. 504"; and on page 98 of the House bill, line 5, strike out "Sec. 504" and in lieu thereof insert "Sec. 505"; and the Senate agree to the same.

JOHN LESINSKI,
CHARLES KRAMER,
EDWARD H. REES,
JAMES E. VAN ZANDT,
Managers on the part of the House.

L. B. SCHWELLENBACH,
WARREN R. AUSTIN,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9980) to revise and codify the nationality laws of the United States into a comprehensive nationality code, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment no. 1: The purpose of this amendment was to make it clear that the term "national of the United States" does not include an alien. The House recedes.

Amendment no. 2: This amendment amended the second paragraph of section 205, relating to the acquisition by illegitimate children of the nationality held by their mothers at the time of their birth, to make it clear that the provisions of the paragraph are applicable with respect to children born before as well as after the effetcive date of the act. The House recedes.

Amendment no. 3: This amendment related to the eligibility for naturalization of Filipinos, and provided that Filipinos with full civil-service ranking who had been in the service for at least three years might be eligible for naturalization. The Senate recedes.

Amendment no. 4: This amendment provided that citizens of the United States who have lost their citizenship by reason of service in the armed forces of a foreign state might regain their American citizenship by naturalization, and that in the naturalization of such persons compliance with some of the provisions of the naturalization laws will be waived. The House recedes.

Amendment no. 5: This amendment provided that persons claiming the rights or privileges of nationals of the United States might petition the district courts of the United States for judgments declaring them to be such nationals. It provided further that any such person who is beyond the jurisdiction of the United States and has filed such petition might obtain from the appropriate consular officer a certificate of identity entitling him to entry into the United States. The House recedes with amendments which make a number of clarifying changes in the text of the Senate amendment and provide for the issuance of the certificates of identity only upon an application showing that the claim of nationality is made in good faith and has a substantial basis. The conference agreement also provides for appeals to the Secretary of State from denials of application for such certificates of identity. The conference agreement transposes the text of this amendment to a more appropriate place in the bill and also makes the necessary corrections in section numbers.

Amendment no. 6: This amendment provided that in registering aliens arriving in the United States, the fingerprints of such aliens shall be required in addition to the other information which is required under the bill. The House recedes.

Amendment no. 7: The House bill provided that a national of the United States should lose his nationality by entering, or serving in, the armed forces of a foreign state unless expressly authorized by the laws of the United States. The Senate amendment provided that he should lose his United States nationality in such a case only if he has or acquires the nationality of the foreign state. The House recedes.

Amedment no. 8: This amendment provides that, in addition to the other reasons specified in the bill, a national of the United States shall lose his nationality by committing any act of treason against, or attempting by force to overthrow or bearing arms against the United States, provided he is convicted thereof by a court martial or by a court of competent jurisdiction. The House recedes.

Amendment no. 9: This is a change in cross references made necessary by amendment no. 8. The House recedes.

Amendment no. 10: The House bill provided that a person who has become a national by naturalization and who would otherwise lose his nationality by residing in a foreign state for a period of years shall not lose his nationality if he resides abroad to represent an American commercial or financial organization. The Senate amendment added "business organization". The House recedes.

Amendment no. 11: This amendment makes clarifying changes in the provision of the House bill which provides that the wife, husband, or child of an American citizen, who is residing abroad for the purpose of being with such American citizen, shall not lose his citizenship in those cases where the American citizen spouse or parent may reside abroad without losing his nationality. The House recedes.

JOHN LESINSKI,
CHARLES KRAMER,
EDWARD H. REES,
JAMES E. VAN ZANDT,
Managers on the part of the House.

Mr. LESINSKI. Mr. Speaker, I ask unanimous consent for the present consideration of the conference report on the bill H. R. 9980 just filed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan [Mr. LESINSKI]?

Mr. JENKINS of Ohio. Mr. Speaker, reserving the right to object, will the gentleman give us a little time to discuss this?

Mr. LESINSKI. We will have an hour.

The SPEAKER. Is there objection to the request of the gentleman from Michigan [Mr. LESINSKI]?

There was no objection.

Mr. LESINSKI. Mr. Speaker, I ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the whole report.

The SPEAKER. Is there objection to the request of the gentleman from Michigan [Mr. LESINSKI]?

Mr. JENKINS of Ohio. Mr. Speaker, reserving the right to object, does the gentleman expect to give us a little time on this?

The SPEAKER. The gentleman from Michigan [Mr. LESINSKI] will control an hour.

Mr. JENKINS of Ohio. That is what I thought. If he was going to be arbitrary and not give us any time, we would object now. I withdraw my objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan [Mr. LESINSKI]?

There was no objection.

The Clerk read the statement of the managers on the part of the House.

EXTENSION OF REMARKS

Mr. SCHAFER of Wisconsin. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein an exceptionally fine address presented to the Accounting Section Convention at Green Lake, Wis., by Mr. C. E. Kohlhepp, vice president of the Wisconsin Public Service Corporation, Milwaukee, Wis.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SCHAFER of Wisconsin. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by including a recommendation for a loyalty crusade through music for 1940–41 by Mrs. Helen Harrison Mills, of Peoria, Ill., chairman of the International Music Relations Committee of the National Federation of Music Clubs.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. MASON. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and include therein a short article by Westbrook Pegler.

The SPEAKER. Is there objecticn to the request of the gentleman from Illinois?

There was no objection.

NATIONALITY ACT OF 1940

Mr. LESINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. MURDOCK].

Mr. MURDOCK of Utah. Mr. Speaker, I ask unanimous consent to include in my remarks an article from the Radio and Electrical Union News.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. MURDOCK of Utah. Mr. Speaker, for about 5 minutes I ask that the House indulge me while I discuss the frailties of the human memory; the vagaries of a mind which forgets; the necessitous urge which leads a political leader suddenly to change from an enemy of organized labor to pose as its solicitous friend.

Mr. Willkie, the Republican standard bearer, cooed his friendship for labor in his speech at Pittsburgh last night. I desire to give another side to that picture—and the time is almost coincident with the date on which Mr. Wendell Willkie, president of the Commonwealth & Southern, was chosen as the Republican standard bearer.

I shall read from the Radio and Electrical Union News—published by the International Brotherhood of Electrical Workers, an affiliate of the American Federation of Labor in the second half of July, the following dispatch, dated Tallassee, Ala.:

[From the Radio and Electrical Union News of July 1940]

ALABAMA POWER WORKERS REAFFIRM DETERMINATION—COMPANY UNION BATTERIES AND PLUG-UGLY BOSSES FAIL TO SHAKE COURAGE OF LOCAL UNION 904—LAW FLOUTED BY WILLKIE UTILITY

TALLASSEE, ALA.—Still one of the blackest spots on the utility map, the Alabama Power Co. continues its incessant war on organized labor. The company is a unit of the vast Commonwealth & Southern, a huge holding corporation, of which, until his very recent resignation, Wendell L. Willkie, former Democrat and now Republican nominee for Presidency of the United States, was chairman of the board of directors.

Whether Willkie is at fault or not is beside the question. Undoubtedly, if he is interested in labor at all, he might very easily rectify the deplorable situation now existing on this power system.

SIX YEARS CONTINUOUS

The battle for labor recognition on this property has been raging for about 6 years, has run the gantlet of every device conceived in the minds of labor-hating bosses to destroy all semblance of democracy, company unionism has run rampant, the Labor Relations Act has been flouted and laughed at, Labor Board orders have been ignored or corrupted by the tycoons, and plug-uglies have incited riotous conditions to discredit union affiliation.

"Even in this year 1940," states an observer, "men are forced to face the same brutal conditions on this company's property that were thought to be wiped out decades ago.

"Just a few instances will serve to show the deplorable treatment meted out to those who dare to exercise their right to join a union of their own choosing.

UNION MEMBER SLUGGED

"A steam-plant superintendent, notorious for his slave driving and labor baiting, slugged a union member who dared to resent being falsely labeled a thief. A hydro plant foreman threatened to knock another union member on the head when the member offered some constructive criticism of the foreman's faulty work. The known presence of company spies keeps everyone on nerve's edge, and the widespread enmity of bosses for union members has reduced efficiency to a low ebb.

"In addition to all of this, the company is still resisting an order to refund dues deducted from the pay roll for the support of a company union, condemned as illegal under provisions of the Labor Act. The amount due is in excess of $10,000.

"This battle, provoked and continued by the company since 1934, is probably the most outrageous antiunion campaign in recent history. But I. B. E. W. Local Union 904 continues to hold the fort for organized labor. We shall win."

Mr. Speaker, I do not think I need point the moral. [Applause.]

[Here the gavel fell.]

Mr. LESINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. SHANNON].

Mr. SHANNON. Mr. Speaker, I listened to the debate this morning. I am afraid the readers of the RECORD will get the impression from the critical articles read into the RECORD concerning the candidates, and the expressions on the other side, that a mantle of sacrosanctity has been put about the candidates for President. I believe it ill becomes this House to indulge in that kind of claptrap, going to extremes either on one side or the other.

I want to go back to show you that that never was the rule in this country. Let me take first that great statesman, America's supreme statesman, Thomas Jefferson. The John Jay treaty was up, and he said of the President at that time, George Washington, words to this effect, "Damn his good intentions if he is going to destroy this Republic." His exact words were: "Curses on his virtues; they have undone his country." That sort of criticism, now as then, is good Americanism. It came from the greatest statesman this or any other country has ever produced. I know there is no man of Jefferson's size in this House today.

Now I come a little closer home. I followed the speakers this morning, and I could not help but think of a beautiful thing said by a President who was born in Kentucky. Jefferson Davis and this man were born almost alongside of each other. This President, in a speech delivered as a Representative in this House, a great indictment of James K. Polk, then President of the United States, said:

Mr. President, you have not fired a shot on American soil. They were all fired on foreign soil.

Further in that speech he said this:

Military glory, the attractive rainbow that rises in showers of blood, that serpent's eye that charms to destroy.

That speech was made on January 12, 1848, by Abraham Lincoln. He criticized a President. I say that we have not only a right to criticize a President but we have a duty to criticize Presidents or candidates.

I can take one of the candidates and I believe I can show that the House of Morgan is back of him. You have heard of the House of Rothschild that profited so terrifically in the Napoleonic wars. I know who put you into the other war, the first World War. It was the House of Morgan. The astounding thing in America today is that both candidates are just as one on the question of so-called selective service. Four newspapers are published in this city. Jefferson said of newspapers:

The first aid to promoting war, the newspaper.

The four newspapers in this city urged upon you, the Members of Congress, adoption of the selective service,

so-called, and every one of them today is calling it a conscription act. One of them a day or so ago went so far as to say editorially:

Don't fool the people longer, this is a war act.

I say, let us give heed, if giving heed is a protection to the American citizen who has to go out and face this thing. If we have to speak lightly about the House of Morgan and the candidates, then there is surely a degeneracy on the part of this, the people's body, because if the American youth does not have representation here, he does not have it any place. [Applause.]

[Here the gavel fell.]

Mr. LESINSKI. Mr. Speaker, I yield one-half minute to the gentleman from Michigan [Mr. CRAWFORD].

Mr. CRAWFORD. Mr. Speaker, yesterday I asked unanimous consent to extend my remarks in the RECORD, and on looking them over I find there are two very brief quotations that I would like to include. I therefore ask unanimous consent to put them in my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LESINSKI. Mr. Speaker, I yield one-half minute to the gentleman from California [Mr. HINSHAW].

Mr. HINSHAW. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include an editorial from the Los Angeles Times of Sunday, September 29.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LESINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS of Ohio. Mr. Speaker, all of us who have been following this legislation appreciate that it is a very complicated matter. The Immigration Committee of the House for years has been struggling with the proposition of recodifying the nationality laws, and I believe that under the direction of my colleague, the gentleman from Kansas [Mr. REES], and the other members of that committee, they have done a very fine job. We passed the bill here in the House after a good deal of discussion and it went to the Senate and they have added some very important amendments. The conferees have accepted some of the amendments and rejected others. I want to compliment the House conferees on their stand in refusing to concur in some of these proposed amendments, but there are two amendments in which they have concurred that I do not quite understand and I would like to take the time to secure a little explanation of them.

I have before me Senate amendment No. 4 and it would be of no use for me to read it to the House because it is so complicated that no one could understand it by reading it once or even reading it 10 times, and to give you a sample I will read a part of it:

A person who shall have been a citizen of the United States and also a national of a foreign state, and who shall have lost his citizenship of the United States under the provisions of section 401 (c) of this act, shall be entitled to the benefits of the provisions of subsection (a) of this section, except that contained in subdivision (2) thereof. Such person, if abroad, may enter the United States as a nonquota immigrant, for the purpose of recovering his citizenship, upon compliance with the provisions of the Immigration Acts of 1917 and 1924.

Of course, the language of the proposed amendment, no doubt, has been well prepared, but it is meaningless in itself and I would like to ask someone to explain to me just what that amendment does.

Mr. LESINSKI. Mr. Speaker, I yield to the gentleman from Kansas [Mr. REES] as he was chairman of the subcommittee that worked on these amendments.

Mr. REES of Kansas. Mr. Speaker, I appreciate the statement of the gentleman from Ohio. Reading the amendment by itself, it is not exactly meaningless, but it is certainly quite difficult to explain. Any amendment read separately from a bill is difficult to understand. Of course, the gentleman has read the bill and the amendments to it and I will be pleased to explain this particular amendment to the gentleman from Ohio, who has always given these problems his careful and earnest study. He is well informed on problems of immigration and naturalization.

Mr. JENKINS of Ohio. I will be glad if the gentleman will do that.

Mr. REES of Kansas. Under the original House bill it was provided that anyone who joined a foreign army would lose his citizenship whether he took an oath of allegiance to the country of that army or not. You know until recently it was generally understood that if you joined a foreign army you took an oath of allegiance to the country of the army that you joined, but in recent years there have been a good many cases, and I believe right now more of it is being done, where men join foreign armies and do not take the oath of allegiance. The provision in the bill that was passed by the House said, in substance, that anyone who joined a foreign army would lose his citizenship. We found it to be true, however, that an American citizen would join the army, we will say, of Great Britain, and thereby lost his citizenship he might become stateless unless he could become a citizen of Great Britain. Furthermore, we just do not want that sort of thing to happen and therefore the bill has been amended in the Senate to say, in substance, that anyone who is a citizen or national of the United States and joins the army of a country in which he has dual citizenship, that person will lose his citizenship in the United States.

I might go back and explain a little further that the reason for this particular amendment comes about largely because it is said that there are persons from certain countries who have gone to the United States or its possessions and have children born here or in our possessions that returned to the country of their parents and acquired dual citizenship of such country. They join the army of that country without taking the oath. They have returned to this country and we are never able to tell whether they have been in those armies or not. We would like to find out the facts if we can. So we are cutting their citizenship off except under certain circumstances and conditions.

Now, all in the world we are saying here is, in substance, that if a person has a dual citizenship in a country where he joined the army he loses his citizenship but if he is an American citizen without dual citizenship and has joined a foreign army without taking the oath, he does not lose his citizenship. Then to go one step further, if he joins the army of a country where he has dual citizenship he may return to this country and file application for the recovery of his citizenship, practically in the same manner as veterans have done under the laws that were passed in 1917.

Mr. JENKINS of Ohio. Let us take the case of a boy who goes to some foreign country and joins its army. When the war is over or any time he wants to come back, this amendment provides that he may come back as a nonquota immigrant. He works his way back to citizenship according to law.

Mr. REES of Kansas. If he has not taken the oath of the country whose army he joined.

Mr. JENKINS of Ohio. Oh, yes; of course, if he has expatriated himself, has held up his hand and said, in effect, "I am not a citizen of the United States any more," and accepted the citizenship of some other country, then, of course, he is not any longer entitled to our compassion.

Mr. REES of Kansas. That is correct.

Mr. JENKINS of Ohio. But if he is a boy who has run away and joined the army just out of the lure of what the army offers, and so on, we do not want to punish him by keeping him out, and that is a very laudable provision in the bill. But in section 2 it says "except that contained in subdivision (2) thereof." What is subsection 2 and what has subsection 2 got to do with it? If it is a boy such as I have described, there is no impediment to his return.

Mr. REES of Kansas. That is correct.

Mr. JENKINS of Ohio. But what is this subsection 2? What kind of a predicament can he get himself into that would keep him out except renouncing allegiance to the

United States and assuming allegiance to some other country? What is in this section? I have it before me, but I cannot tell what it means.

Mr. REES of Kansas. Subsection 2 says that a person who has acquired nationality through his parents—that is to say, if he acquires that nationality because of his parents, not of his own volition——

Mr. JENKINS of Ohio. Well, let me ask you this in a broad sense: For instance, here is a man who has been in this country. He is of foreign extraction. He, of course, would not be a citizen until he becomes a citizen, but he has been in the country and he has been a law-abiding citizen, but he goes back and joins the army in his own country. He has already indicated his willingness to become a citizen. I presume section 2 means that if he goes back to his native country and becomes married, and so on, and becomes entangled in some domestic connection he will not be able to get back as freely as the boy that I first described?

Mr. REES of Kansas. He certainly would not.

Mr. JENKINS of Ohio. I presume that is what section 2 means.

Mr. REES of Kansas. He never was able to.

Mr. JENKINS of Ohio. I think that is what No. 2 in this fourth amendment means. It means that if a boy wants to come back, then we are going to let him come back, but if he has mixed himself up in something else that disqualifies him, he has to prove himself clear and fight himself back as best he can. I do not profess to understand this fully. My only interest is to feel that you have not let something slip into this law that will cause us trouble.

Now, let me go to amendment No. 5. That is a very long amendment and is very complicated. I have read it with a great deal of care. I must confess I do not understand it exactly. Let me ask if this is what it means: The gentleman appreciates this fact, that we have always maintained in the United States—and, by the way, our country was the first country to lay down real, sensible immigration laws.

In other words, we laid down the foundation. They have all followed us. Some have gone a great deal further than we have, but we have had a principle of law that we have not lost sight of, and that is that an alien who has not yet arrived in our country has no rights under our law; not a single right does he possess. When he comes here he has practically all the civil rights that a citizen has. He has a right to park his car within the white lines. If he has children he has the right to send them to our schools. When he comes here he has the same rights, but until he comes here he has none. I hope this section does not invade this time-honored principle that we have defended so nobly in this country.

Mr. LESINSKI. That amendment is for this purpose: Where our manufacturers send agents through the country and they may have to remain 5, 10, or 15 years in a foreign country, we have to give them certain rights to come back.

Mr. JENKINS of Ohio. But I would like to address myself to this one theme that I have laid down: Does this invade that time-honored position that we have taken in this country and always defended successfully?

Mr. REES of Kansas. It does not have a thing to do with it. I think the gentleman is talking about the amendment that has to do with the question of what we regard a right to a day in court."

Mr. JENKINS of Ohio. That is what I mean exactly.

Mr. REES of Kansas. I think the gentleman recalls that when this measure was explained before the House we have amended the code to tighten the situation a great deal with reference to individuals who have what we call dual citizenship. There are thousands of persons abroad who have what is known as dual citizenship. Let me give you an example. For instance, take a man who is born abroad of American citizen parents. That particular person born abroad, born in Italy or Germany or France or whatever it may be, if his parents are American citizens he is an American citizen because he is the child of American citizens.

Then he acquires citizenship of the country where he is born. We have provided among other things in this code that that particular group of persons will lose their citizenship under certain circumstances and conditions.

This particular provision applies now only to persons who are nationals or citizens. We have discussed the question of what we mean by "nationals."

Mr. JENKINS of Ohio. What do you mean by "nationals"?

Mr. REES of Kansas. They are persons who owe allegiance to the Government of the United States. We say that if those persons attempt to come back, if they are turned down by the diplomatic representatives of our country abroad, if they still are able to give a substantial reason why they should be admitted as citizens of the United States, and if the Department of State believes there is a substantial reason for doing so, that person may come to this country for the purpose of bringing an action in court and being heard in this court and having his case appealed if he wants to. At the same time it is with the understanding that if he is turned down he shall be deported from this country.

We have a rather new situation here, and that is we are cutting off the claim to citizenship of these thousands of persons under this provision in the bill who do not comply with its terms and therefore it was deemed advisable that some chance be given them to have what might be called their day in court. We have safeguarded the situation extremely carefully and feel that so far as possible we have prevented any abuse of it. It was my contention when this measure was up for consideration in the committee that such people did have the right to go into court either on a declaratory judgment or under a writ of habeas corpus, but there was a feeling on the part of others that they may not have that right.

We are giving this right not to aliens, if you please, but to American citizens. There being perhaps some foundation for that contention, we have allowed it but have safeguarded it just as carefully as we could. Have I made myself clear to the gentleman from Ohio?

Mr. JENKINS of Ohio. I think this proposition is pretty well laid down. It is unfortunate that the amendment that is going to be written into the bill is not the amendment the gentleman gave me and the one I am reading from.

Mr. LESINSKI. The gentleman will find that in amendment No. 1, the word "alien" was put in. In other words, an alien cannot take an appeal.

Mr. JENKINS of Ohio. I think that was a very salutary change and protection, but I want to develop this somewhat further. I remember a case that came to the attention of Congress, the case of a man attempting to avoid the principle I talked about a while ago. He had married a woman who lived in Germany, and before he married her he had been informed that she could not be admitted into this country. He tried to bring a suit, in fact did bring a mandamus action against the Secretary of State to compel the admission of this woman into the United States. The case went to the Supreme Court and the Supreme Court held just as I said a while ago that an alien outside of the United States not a citizen of the United States, one who has not started to become naturalized, would have no right in our courts.

I think the provision in the amendments defining the word "national" is a very salutary one.

I know there are a lot of fine people who need the protection of this provision that I am discussing. There is no question about that, but what I am concerned about, and this is the next question, is that when we come close to a fundamental principle of law which we have agreed upon for years we must be exceedingly cautious. What you are saying here is that a man who has never been in the United States at all——

Mr. REES of Kansas. Mr. Speaker, will the gentleman yield?

Mr. JENKINS of Ohio. Let me proceed for a minute, please. What you are saying in this amendment is that a man who has never been in the United States at all but who claims he is a national either because his parents were, or on some other ground but is not, in fact, a national, can make application in

our courts to have tested the question of whether he is a national. Or suppose he wants to be admitted into this country to do something not for the best interests of the country, he can claim his day in court.

Certainly we should not protect him as we would the boy who became a soldier. What is there in the bill to prevent the abuse of this privilege by a man who puts up a plausible claim to being what he in fact is not? The gentleman from Kansas has done a splendid job on this bill and I compliment him; he deserves to be complimented. Likewise the gentleman from Michigan, he has done a splendid job and I compliment him; but I do not want to see us give imposters a right to carry on their perfidy while we are trying to do something worth while for some deserving people.

Mr. LESINSKI. I return the compliment to the gentleman from Kansas.

Mr. JENKINS of Ohio. But I want to know what safeguards have been erected against the abuse of this privilege.

Mr. REES of Kansas. I think I can answer the gentleman briefly. Let me call his attention to the fact that he seems to be discussing aliens. We are not talking about aliens.

Mr. JENKINS of Ohio. I am afraid the gentleman is wrong about that. I am talking about the case of a man who is not a national but who claims to be a national and who makes a showing of establishing that he is a national of this country. What have you in the bill to put up the bars against such a fellow?

Mr. REES of Kansas. The gentleman from Ohio being familiar with these nationality laws knows that anyone who is a citizen who goes abroad can come back into the United States any time he wants to no matter what he has done while abroad just so he has not done one thing, lose his citizenship.

He may even have committed a crime, just so he has not in some way expatriated himself as a citizen of this country. That is the present law. He does not have to bother about this process. He can come back to the United States and claim the protection of the laws here or the protection of our Government while abroad. Under this code we have provided certain restrictions in that situation and one of the most important is that the man who claims dual citizenship and who does not make the claim within a 2-year and 90-day period after this bill becomes law, that person has the burden of proof. Heretofore there was no burden at all. Now he loses his citizenship if he does not come into the United States within 2 years after this bill passes and maintain that citizenship. He is out otherwise. Except also he has 2 years after he reaches the age of 21.

Mr. JENKINS of Ohio. We are not very far apart on this. Let us get back to this hypothetical case of the man in Germany. He has never been over here, he has never had the benefit of the teachings of Americanism. Let us assume he is a Nazi. He does not espouse our theories at all. But he has a pretty good claim that he is an American national. He can make out a pretty good claim that he is a national. Now all he has to do is step up to a consul and say, "I am an American national and I want you to give me a certificate," and the consul has to give it to him. If you interpret this law liberally he may have to give him that certificate. Then he can go over all Germany and say, "I am a German" when he wants to be a German and "I am an American" when he wants to be an American. And if he refuses to give him that certificate, that man may institute an action in our courts to have court take the time to hear his case.

This law goes too far in that respect. This fellow has the right to file a petition in the United States courts. We used to say that these fellows who are away from here have no right in our courts. But here is a man who has never been here and he has the right to file a petition in the United States court demanding a certificate that he is an American national, and he may use it.

Of course, you have one very fine provision in here and I compliment you for that. If the consul over there is on to his job he can make that fellow prove all these things before he gives him a certificate, but if he is inclined to be loose he may say, "We will let him go through. He claims he is a national, and we will give him a certificate." Then that fellow will parade himself as an American citizen. I know you have tried to shut the door. Now, I ask you this question in the spirit of an American, like all of us here are: Can I go out of this room after this is adopted and tell the people who are going to ask about this law that we have shut the door against that fellow? Do you make him establish the fact he is a national and that he is what he claims to be before he can masquerade all over Europe with a certificate from an American consul saying that he is something which he is not? What I want you to know is that if you have failed to do this you have overlooked an important matter. We should make our immigration laws fair toward the man or woman who is deserving, but we cannot be too strict toward the imposters and those who would undermine our Government and its institutions. Mr. Speaker, I have no desire to prolong this discussion further.

Mr. REES of Kansas. Under the present law the individual the gentleman from Ohio is talking about does not have to go through any process at all. If he is still a citizen of the United States, even though born abroad, he does not have to go through any process at all. In this act we put the burden of proof upon that individual to show that he is a citizen or a national of the United States. Along with that, we have guarded the thing further. After placing the power and authority in the hands of the State Department, we give him, as I tried to explain a few minutes ago, a day in court. The other way he can come back into the United States, regardless of what we may say about it, because he is still a citizen and entitled to our protection, no matter how long he may have been abroad.

Mr. HINSHAW. I would like to ask a question about a person born in the United States of foreign parentage—that is, of noncitizen parentage—and who has this status of dual nationality. Suppose he is called back to join the army of the country of his parents, which he does. I understand that after his service he can apply for reentry to the United States under this act.

Mr. REES of Kansas. If he goes back to that army and joins without taking the oath, then he can come back to this country and petition for citizenship and have a hearing. If he has taken the oath of the foreign country he loses his citizenship and becomes an alien.

Mr. LESINSKI. There is an additional explanation. The law provides that any man who reaches the age of 21 must make his declaration within 2 years after his twenty-first birthday or he loses all his rights to American citizenship.

Mr. HINSHAW. Does this law provide that he cannot hold dual citizenship?

Mr. LESINSKI. This law provides he must make his declaration within 2 years and 9 months after his twenty-first birthday.

Mr. HINSHAW. There is one country in the Orient which says that if the parent of a child registers its nationality and citizenship with that foreign country before the child reaches 16 months of age, the citizenship is permanent.

Mr. LESINSKI. What foreign country?

Mr. HINSHAW. That does not make any difference.

Mr. LESINSKI. Suppose American-born children went back to Europe and settled there with their parents. Those are what we call dual citizens, or they hold dual citizenship. Now when those persons reach the age of 21 they must make a declaration upon attaining the age of 21 years and if they do not they lose all rights to American citizenship.

Mr. HINSHAW. Let us get down to cases and speak of the Japanese child born in the United States of Japanese parentage and who is registered with Japan as a citizen of Japan before he reaches the age of 16 months.

Mr. LESINSKI. Of course, our law is very plain on that. Everybody born here is an American citizen.

Mr. HINSHAW. I understand, but they are registered in their home country as Japanese citizens.

Mr. LESINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. KRAMER].

Mr. KRAMER. Mr. Speaker, one of the amendments that was written into this bill by the Senate was to give the right of citizenship to Filipinos who are in the Government service. The House conferees voted against that amendment, likewise did two of the Senate conferees, so the Senate receded from that amendment and it was stricken out. We felt that it was giving special privilege to one race, whereas there were many other people coming from other countries, such as Ireland, Sweden, and Poland, who were likewise in the civil service, and why should we give a special privilege to the Filipinos on the Pacific coast or elsewhere and not to the others. If they were losing their jobs by this legislation it is through the fault of no one but themselves because they were all the time holding themselves out as being American citizens.

Mr. LESINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona [Mr. MURDOCK].

Mr. MURDOCK of Arizona. Mr. Speaker, I have asked for this time to put a few questions to the gentleman in charge of the bill, and particularly to the chairman of the subcommittee, who I feel sure is an eminent lawyer and constitutional authority. I was very much interested in the questions raised by the gentleman from Ohio which had to do with some of these complicated matters. In these days when we have so much discussion about and so much thought in the public mind concerning dangerous aliens and subversive influences, I am wondering what rights resident aliens have under the Constitution of the United States. I have heard it said that they have no rights guaranteed by the Constitution. Would the gentleman from Kansas comment on that question a bit? For instance, does the right to have a writ of habeas corpus, the right of judicial trial, the protection of due process of law, and other such rights apply with equal force to resident aliens as to citizens of the United States?

Mr. REES of Kansas. I appreciate the gentleman's compliment about my being a constitutional lawyer, but I am afraid if I went into too broad a discussion of the question he might discover that I am not as well qualified as a constitutional lawyer as he suggests. Nevertheless, I believe I can answer his question rather definitely and say that if this country sees fit to admit an alien to this country he is entitled to all the protection that is provided our own citizens under the law. I am speaking about the protection afforded under our Constitution. Of course, he does not have the right to vote or the right to hold office. Under our present laws we provide that aliens may not be employed by the various departments of the Government. However, the gentleman is talking about the Constitution.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. MURDOCK of Arizona. I yield to the gentleman from Massachusetts.

Mr. McCORMACK. I believe that what the gentleman means is that, as we all know, an alien who is in this country has all the rights of personal liberty that a citizen has.

Mr. REES of Kansas. That is right. I appreciate the statement of the distinguished floor leader.

Mr. MURDOCK of Arizona. The Bill of Rights applies to that resident alien the same as to an American citizen?

Mr. REES of Kansas. That is right.

Mr. MURDOCK of Arizona. I thank the gentleman for the information and it confirms my thought on the matter.

As one who is a long way removed from his ancestors who came from Europe to American shores, I may be exhibiting that common American characteristic of the older inhabitants by wishing to tighten our immigration laws and deal more firmly with the aliens who have come among us. Yet I do appreciate the splendid human contribution which America has continually received from abroad. I am confident that love of America burns as fiercely or even more fiercely in the breasts of many newcomers than it burns in the breasts of some natural-born Americans or those who have descended from natural-born Americans. While all that is true, we must recognize that there are dangerous aliens among us. Even discounting some of the fears and the exaggerations of alarmists about "fifth columnists," prudence dictates that we reshape our laws concerning immigrants and concerning the taking out of American citizenship and concerning the treatment of resident aliens in this country.

Now that the Old World is on fire, and there will be effort made by many nationals of warring countries to escape Old World troubles and get to America, there is especial need of vigilance on our part to be more selective and to debar the dangerous and undesirable variety and deport that variety who are already here. American citizenship must mean something. It does mean very much, and it must not be too freely bestowed upon the unworthy. Those of us who have read sacred history remember how a great but despised early Christian frequently avoided persecution and escaped imprisonment merely by pronouncing the magic words, "I am a Roman citizen." Would to God every worthy person within the confines of our country might put greater meaning into similar words by proudly affirming, "I am an American citizen." Such would afford him all the rights, benefits, privileges, and blessings of our Bill of Rights and of the entire Constitution of the United States.

I have no patience with aliens who come to our shores, or who have years ago come to our shores, for selfish reasons, have lived here for years without attempting to become naturalized citizens. I have no plea nor excuse for them, and have never asked any special consideration of them. Of course, I am very well aware that there are many resident aliens in this country who have not become citizens, and who would like very much to become citizens, being prevented by some explainable matter from doing so. I have pity rather than censure for such aliens residing among us if their loyalty and attitude in other respects may be approved.

During recent weeks a sort of war-time hysteria has swept this country, and some professed patriotic leaders have demanded deportation of all alien troublemakers—as if we were not all anxious to do just that. They have been impatient of delay and careless about method. These would-be political figures sometimes assert that aliens residing in this country have no rights at all under the Constitution, and that they should be deported merely on the ground that they are charged with being hurtful.

It is my understanding that the entrance of a foreigner into this country is not a right of his but a privilege which our Government may grant or withhold, but when an alien has entered this country legally—or at least not illegally—and has resided here, that his status ripens into a right to the protection of our Constitution exactly as the Constitution and Bill of Rights protect American citizens. I further understand that the Supreme Court of the United States has declared that the writ of habeas corpus applies to an alien in this country exactly as to an American citizen, and that the right of judicial trial according to due process of law is guaranteed by the Constitution itself to aliens and nationals of other countries living in this country. Of course, some of these benefits to resident aliens may be further strengthened by treaty provisions between our Government and the governments of which they are subjects. Naturally such treaty provisions, according to the Constitution, become a part of the Constitution itself.

There certainly has been need, in recent months, for new legislation concerning immigrants and aliens, and Congress has passed quite a body of laws besides this measure before us today dealing with the subject. This legislative process has been going on for more than a year. On the 28th of June last, a comprehensive measure finally became law providing for the registration of aliens and also providing for deportation of certain classes of dangerous and undesirable aliens. I recall that the House bills which constituted the initial form of this recent legislation passed the House in May 1939, and I recall that the conference report on some of this legislation came before the House on June 22 this year. Apparently it takes considerable time to affect final enactment of these much needed measures. However, I do believe that this Congress, with new legislation and with codification of old legislation, has dealt energetically, and I hope effectively and fairly, with the problem of the aliens who live among us or who wish to come to live among us. I trust that this will

emphasize the value of American citizenship in all minds and will duly safeguard the precious thing called the American way of life.

Such legislation is a complicated matter, and although I have not been able to look through this bill very carefully, I want to compliment the committee on what they have done. I hope it will clear up many of the questions which are puzzling us. Acting within the framework of constitutional principles and with patriotic loyalty, we need to draw the line sharply so as to deal justly with the three and one-half million or more aliens who are among us, and at the same time protect the great American heritage for our own children as well as for those who have come as our guests from other lands, later to become citizens. [Applause.]

[Here the gavel fell.]

Mr. LESINSKI. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HINSHAW].

Mr. HINSHAW. Mr. Speaker, I want to go on with the question I was asking a moment ago about the child with dual citizenship who grows up here and is called back to serve in the Army of the country of his other citizenship, and then applies for reentry to the United States. The gentleman from Kansas said that at the age of 21 years plus 2 years and 90 days, I believe it was, he had to make a declaration of his determination of citizenship, but suppose the foreign country which has his other citizenship refuses to release him from that nationality. He might serve in that army and he might serve in a war against the United States. Is he still eligible to return to the United States? I mean, he might serve in the foreign army without taking the oath of allegiance, because of the feeling that he is already a citizen.

Mr. REES of Kansas. The gentleman now is talking about this man's becoming an enemy of this country.

Mr. HINSHAW. He might have served in a foreign army, and that army might have operated against the United States.

Mr. REES of Kansas. Let us divide the question. If an individual is born in the United States and joins the army without taking an oath of allegiance of the country of his dual citizenship, that is, he is born here of foreign parentage and as a child is taken by his parents to the country from which his parents came, and becomes a citizen of that country because of the parentage of his father and mother or his father or mother, as the case may be—that person would lose his citizenship.

Mr. HINSHAW. I brought up a moment ago the case where the child was registered with the consul before the age of 16 months, and consequently they claim him as a citizen.

Mr. REES of Kansas. I am not sure that we would pay any particular attention to his registry. We would follow the law of our own country.

Mr. HINSHAW. Yes; but they claim him as a citizen because his parents, before the age of 16 months, registered him as a citizen of that foreign country.

Mr. REES of Kansas. The gentleman is suggesting a matter, I believe, that would have to be ironed out by the State Department. Let us get back to the simple question of an individual born here who acquires dual citizenship. We would follow the laws of our country and not the laws of any other country. If the parents go back to their home country and acquire citizenship in that country also, then that individual if he fights in the army of that particular country can only reacquire his citizenship by filing a petition in the courts of this country.

[Here the gavel fell.]

Mr. LESINSKI. Mr. Speaker, I move the previous question.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

EXTENSION OF REMARKS

Mr. COOPER. Mr. Speaker, the gentleman from Oklahoma [Mr. NICHOLS] was temporarily called from the Chamber, and asked me to request unanimous consent that he be given permission to revise and extend his own remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. REES of Kansas asked and was given permission to revise and extend his own remarks in the RECORD.

Mr. ALEXANDER. Mr. Speaker, I ask unanimous consent that on the first legislative day of next week I may be permitted to extend my remarks in the RECORD, and to insert an article regarding the commercial and industrial depression in the Northwest and in other sections of the Nation, and the bearing which our transportation facilities have on the same, and also to include an article by William A. Marin, of Minnesota, an expert on rate problems. The matter, Mr. Speaker, is over the limit allowed, but I have taken it up with the Committee on Printing and have also obtained an estimate from the Public Printer.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

ADJOURNMENT OVER

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

Mr. MICHENER. Mr. Speaker, reserving the right to object, will the gentleman tell us what he knows about the program for next week, because that will save a lot of questions if it is in the RECORD.

Mr. McCORMACK. On Monday, of course, we have the Consent Calendar and the conference report on the rivers and harbors bill and there may be one or two suspensions.

Mr. MICHENER. The Ramspeck bill will not be taken up?

Mr. McCORMACK. Yes; I understand the Ramspeck bill will be called up, and I am glad the gentleman has called that to my attention.

Mrs. ROGERS of Massachusetts. Is that coming up definitely?

Mr. McCORMACK. That is my understanding; yes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SENATE ENROLLED BILLS SIGNED

The Speaker announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 162. An act to protect producers, manufacturers, distributors, and consumers from the unrevealed presence of substitutes and mixtures in spun, woven, knitted, felted, or otherwise manufactured wool products, and for other purposes;

S. 3437. An act for the relief of the France-American Construction Co.;

S. 3778. An act to amend the act entitled "An act to provide better facilities for the enforcement of the customs and immigration laws," approved June 26, 1930;

S. 3920. An act to amend the Railroad Unemployment Insurance Act, approved June 25, 1938, as amended June 20, 1939, and for other purposes;

S. 4316. An act to repeal sections 4588 and 4591 of the Revised Statutes of the United States;

S. 4341. An act to expedite national defense by suspending, during the national emergency, provisions of law that prohibit more than 8 hours' labor in any one day of persons engaged upon work covered by contracts of the United States Maritime Commission, and for other purposes; and

S. J. Res. 295. Joint resolution authorizing the participation of the United States in the celebration of a Pan American Aviation Day, to be observed on December 17 of each year, the anniversary of the first successful flight of a heavier-than-air machine.

BILLS PRESENTED TO THE PRESIDENT

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On October 3, 1940:

H. R. 1999. An act to confer jurisdiction upon certain United States commissioners to try petty offenses committed on Federal reservations;

H. R. 2728. An act to add certain lands to the Cleveland National Forest in Orange County, Calif.;

H. R. 3009. An act for the relief of June Thompson, a minor;

H. R. 3481. An act for the relief of C. Z. Bush and W. D. Kennedy;

H. R. 4066. An act for the relief of Josefina Alvarado;

H. R. 4126. An act for the relief of Warren Zimmerman;

H. R. 4615. An act for the relief of Sallie Barr;

H. R. 4656. An act to record the lawful admission to the United States for permanent residence of Esther Klein;

H. R. 4724. An act for the relief of Charles F. Martin, a minor;

H. R. 4815. An act for the relief of Henry J. Wise;

H. R. 5040. An act for the relief of Arthur Joseph Reiber, a minor;

H. R. 5314. An act for the relief of Paul J. Kokanik;

H. R. 5814. An act for the relief of David J. Williams, Jr., a minor;

H. R. 6215. An act for the relief of John E. Avery;

H. R. 6512. An act for the relief of F. W. Heaton;

H. R. 6687. An act to permit the States to extend their sales, use, and income taxes to persons residing or carrying on business, or to transactions occurring in Federal areas, and for other purposes;

H. R. 6820. An act for the relief of Mrs. Hama Torii Emerson;

H. R. 6888. An act for the relief of Esther Jacobs;

H. R. 7139. An act for the relief of Joe L. McQueen;

H. R. 7276. An act for the relief of Walter B. McDougall and Herbert Maier;

H. R. 7302. An act for the relief of Lillian Brown and Silas Young;

H. R. 7357. An act to amend section 4472 of the Revised Statutes (U. S. C., 1934 ed., title 46, sec. 465) to provide for the safe carriage of explosives or other dangerous or semi-dangerous articles or substances on board vessels; to make more effective the provisions of the International Convention for Safety of Life at Sea, 1929, relating to the carriage of dangerous goods, and for other purposes;

H. R. 7731. An act to provide for the burial and funeral expenses of deceased veterans of the Regular Establishment who were discharged for disability incurred in the service in line of duty, or in receipt of pension for service-connected disability;

H. R. 7815. An act for the relief of Boston & Maine Railroad;

H. R. 7910. An act for the relief of Betty Jane Bear Robe;

H. R. 8069. An act to re-form the lease for the Sellwood station of the Portland (Oreg.) post office;

H. R. 8150. An act providing for the barring of claims against the United States;

H. R. 8163. An act for the relief of Antonio Sabatini;

H. R. 8301. An act for the relief of Allen B. Boyer;

H. R. 8369. An act authorizing a per capita payment of $10 each to the members of the Red Lake Band of Chippewa Indians from any funds on deposit in the Treasury of the United States to their credit;

H. R. 8744. An act for the relief of Ernst Lyle Greenwood and Phyllis Joy Greenwood;

H. R. 8868. An act conferring jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the Bolinross Co., Inc.;

H. R. 9073. An act to provide for the reimbursement of certain officers and men of the Coast and Geodetic Survey for the value of personal effects lost, damaged, or destroyed in a fire aboard the Coast and Geodetic Survey launch *Mikawe* at Norfolk, Va., on October 27, 1939;

H. R. 9284. An act to provide for the issuance of a license to practice the healing art in the District of Columbia to Dr. A. L. Ridings;

H. R. 9561. An act granting the consent of Congress to the Minnesota Department of Highways and the counties of Benton and Stearns in Minnesota, to construct, maintain, and operate a free highway bridge across the Mississippi River at or near Sauk Rapids, Minn.;

H. R. 9656. An act to authorize the acceptance of donations of property for the Vicksburg National Military Park, in the State of Mississippi, and for other purposes;

H. R. 9670. An act to provide an 8-hour workday and payment for overtime for dispatchers and mechanics-in-charge in the motor-vehicle service of the Postal Service;

H. R. 9722. An act to provide for the regulation of the business of fire, marine, and casualty insurance, and for other purposes;

H. R. 9734. An act authorizing allocation of funds for the construction of Saco Divide unit, Milk River project, and for other purposes;

H. R. 9736. An act to amend section 355 of the Revised Statutes, as amended, to authorize the Attorney General to approve the title to low-value lands and interests in lands acquired by or on behalf of the United States subject to infirmities, and for other purposes;

H. R. 9840. An act for the relief of Bela Karlovitz;

H. R. 9921. An act to authorize the maintenance and operation of fish hatcheries in connection with the Grand Coulee Dam project;

H. R. 9942. An act authorizing the Secretary of the Interior to issue to Henry W. Shurlds and W. H. White a patent to certain lands in the State of Mississippi;

H. R. 9943. An act authorizing the Secretary of the Interior to issue to Ruth Gainey Branscome a patent to certain lands in the State of Mississippi;

H. R. 9952. An act authorizing the Indiana State Toll Bridge Commission to construct, maintain, and operate a toll bridge across the Wabash River at or near Mount Vernon, Posey County, Ind.;

H. R. 9989. An act authorizing the Administrator of Veterans' Affairs to grant an easement in certain land to the city of Memphis, Tenn., for street-widening purposes;

H. R. 9991. An act to amend section 4021 of the Revised Statutes and to repeal section 4023 of the Revised Statutes relating to establishment of postal agencies;

H. R. 10061. An act to consolidate certain exceptions to section 3709 of the Revised Statutes and to improve the United States Code;

H. R. 10155. An act for the relief of William M. Irvine;

H. R. 10246. An act to further amend the act of July 30, 1937, authorizing the conveyance of a portion of the Stony Point Light Station Reservation to the Palisades Interstate Park Commission;

H. R. 10267. An act to authorize the Administrator of Veterans' Affairs to grant an easement in a small strip of land at Veterans' Administration facility, Los Angeles, Calif., to the county of Los Angeles, Calif., for sidewalk purposes;

H. R. 10337. An act to authorize the Secretary of the Treasury to order retired commissioned and warrant officers of the Coast Guard to active duty during time of national emergency, and for other purposes;

H. R. 10406. An act to authorize the appointment of graduates of the Naval Reserve Officers' Training Corps to the line of the Regular Navy, and for other purposes;

H. R. 10413. An act to provide revenue, and for other purposes;

H. J. Res. 467. Joint resolution to exempt from the tax on admissions amounts paid for admission tickets sold by authority of the Committee on Inaugural Ceremonies on the occasion of the inauguration of the President-elect in January 1941; and

H. J. Res. 603. Joint resolution to authorize the United State Maritime Commission to furnish to the State of

Pennsylvania a vessel suitable for the use of the Pennsylvania State Nautical School, and for other purposes.

On October 4, 1940:

H. R. 4088. An act to amend the Commodity Exchange Act, as amended, to extend its provisions to fats and oils, cottonseed, cottonseed meal, and peanuts;

H. R. 8846. An act to provide for the retirement of certain members of the Metropolitan Police Department of the District of Columbia, the United States Park Police force, the White House Police force, and the members of the Fire Department of the District of Columbia;

H. R. 9581. An act to amend the Merchant Marine Act, as amended; and

H. R. 10339. An act to authorize the President to requisition certain articles and materials for the use of the United States, and for other purposes.

ADJOURNMENT

Mr. McCORMACK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 25 minutes p. m.) the House adjourned, in accordance with its previous order, until Monday, October 7, 1940, at 12 o'clock noon.

EXECUTIVVE COMMUNICATIONS, ETC.

1982. Under clause 2 of rule XXIV, a letter from the Acting Secretary of the Interior, transmitting a complete set of laws passed by the municipal councils and the legislative assembly of the Virgin Islands during the fiscal year 1940 (H. Doc. No. 963); to the Committee on Insular Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. WOODRUM of Virginia: Committee of conference on the disagreeing votes of the two Houses. H. R. 10539. A bill making supplemental appropriations for the support of the Government for fiscal year ending June 30, 1941, and for other purposes (Rept. No. 3016). Referred to the Committee of the Whole House on the state of the Union.

Mr. LESINSKI: Committee of conference on the disagreeing votes of the two Houses. H. R. 9980. A bill to revise and codify the nationality laws of the United States (Rept. No. 3019). Referred to the Committee of the Whole House on the state of the Union.

Mr. SCHAFER of Wisconsin: Committee on Indian Affairs. S. 3133. An act for the relief of the Cherokee Indian Nation or Tribe, and for other purposes; without amendment (Rept. No. 3020). Referred to the Committee of the Whole House on the state of the Union.

Mr. SCHAFER of Wisconsin: Committee on Indian Affairs. S. 1432. An act authorizing the Snake or Piute Indians of the former Malheur Indian Reservation of Oregon to sue in the Court of Claims, and for other purposes; with amendment (Rept. No. 3022). Referred to the Committee of the Whole House on the state of the Union.

Mr. JONES of Texas: Committee on Agriculture. H. R. 7813. A bill to safeguard the homing pigeon; without amendment (Rept. No. 3023). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. VAN ZANDT: Committee on Immigration and Naturalization. H. R. 10063. A bill to record the lawful admission to the United States for permanent residence of Ona Lovcikiene and children, Edmundos and Regina; without amendment (Rept. No. 3017). Referred to the Committee of the Whole House.

Mr. AUSTIN: Committee on Immigration and Naturalization. H. R. 10282. A bill for the relief of Karel Lederer; without amendment (Rept. No. 3018). Referred to the Committee of the Whole House.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. S. 4212. An act for the relief of certain Navajo Indians, and for other purposes; without amendment (Rept. No. 3021). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HILL:

H. R. 10611. A bill to provide for the completion of alterations to bridge over the Columbia River at Hood River, Oreg., and White Salmon, Wash., resulting from the construction of Bonneville Dam; to the Committee on Appropriations.

By Mr. HOOK:

H. R. 10612. A bill to authorize a preliminary examination and survey of the Sturgeon River and its tributaries in the State of Michigan for flood control, for run-off and waterflow retardation, and for soil-erosion prevention; to the Committee on Flood Control.

By Mr. KING:

H. R. 10613. A bill to authorize procurement of certain products made by the blind in Alaska, Hawaii, or Puerto Rico; to the Committee on Expenditures in the Executive Departments.

By Mr. SCHAFER of Wisconsin:

H. R. 10614. A bill to permit disclosure of information to claimants of the Veterans' Administration; to the Committee on World War Veterans' Legislation.

By Mr. HARTER of Ohio:

H. R. 10615. A bill to provide for reimbursing Portage County, Ohio, for loss of certain taxes by reason of acquisition of land by the United States for the shell-loading plant near Ravenna, Ohio; to the Committee on Military Affairs.

By Mr. ALEXANDER:

H. J. Res. 610. Joint resolution: Prepare for Peace; to the Committee on Foreign Affairs.

By Mr. HENDRICKS:

H. J. Res. 611. Joint resolution to provide for the cooperation of the United States of America in the plans of the St. Augustine historical program for the establishment of a permanent inter-American cultural center in St. Augustine, Fla.; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. KNUTSON:

H. R. 10616. A bill for the relief of William H. Evens; to the Committee on Claims.

By Mr. MACIEJEWSKI:

H. R. 10617. A bill for the relief of Jan Jindrich Reiner; to the Committee on Immigration and Naturalization.

H. R. 10618. A bill for the relief of Antomin Stepan Reiner; to the Committee on Immigration and Naturalization.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9342. By Mr. CARTER: Resolution of the Board of Supervisors of the County of Alameda, State of California, protesting against action on House bill 10384 and Senate bill 4269, amending the Social Security Act by reducing period of residence in States from 5 years to 1 year to receive old-age-security payments; to the Committee on Ways and Means.

9343. By Mr. HART: Petition of the Board of Education of the City of Jersey City, N. J., urging the continuance and expansion of Federal reimbursement to public vocational schools; to the Committee on Appropriations.

9344. By Mr. LYNCH: Petition of the Educational Council of the National Public Housing Conference, New York, N. Y., urging enactment of Senate bill 591, for additional slum clearance and low-rent housing; to the Committee on Banking and Currency.